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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 196³

No. ~~31~~ 6

WILLIAM L. GRIFFIN, ET AL., PETITIONERS,

vs.

MARYLAND.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS
OF THE STATE OF MARYLAND

PETITION FOR CERTIORARI FILED AUGUST 4, 1961
CERTIORARI GRANTED JUNE 25, 1963

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962

No. 26

WILLIAM L. GRIFFIN, ET AL., PETITIONERS,

vs.

MARYLAND.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS
OF THE STATE OF MARYLAND

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[fol. A]

[File endorsement omitted]

APPLICATION FOR WARRANT BY POLICE OFFICER—

Filed August 4, 1960

State of Maryland, Montgomery County:

Francis J. Collins, being first duly sworn, on oath doth depose and say: That he is a member of the Montgomery *deputy sheriff*

~~County Police~~ Department and as such, on the 30th day of June, 1960, at about the hour of 8:45 P.M. he did observe the defendant William L. Griffin in Glen Echo Park which is private property on order of Kebar Inc. owners of Glen Echo Park the def. was asked to leave the park and after giving him reasonable time to comply the def. refused to leave he was placed under arrest for trespassing

your affiant further makes oath that he has personal knowledge of additional facts and evidence which are not incorporated in this affidavit, but which have been discussed before and given to the Justice of the Peace before whom the request for issuance of a warrant was made.

Whereas, Francis J. Collins doth further depose and say that he, as a member of the Montgomery County Police Department believes that is violating Sec. 577 Article 27 of the Annotated Code of Maryland.

Francis J. Collins

Subscribed and sworn to before me, in Montgomery County, State of Maryland, this day of Jun 30 1960.

Edward W. Cashman, Justice of the Peace for
Montgomery County, Maryland.

B

[fol. B]

No. 3881 Crim.

[fol. C]

[File endorsement omitted]

STATE WARRANT—Filed August 4, 1960

State of Maryland, Montgomery County, to wit:

To James S McAuliffe, Supt. of Police of said County,
Greeting:

Whereas, Complaint hath been made upon the information and oath of Lt Collins Deputy Sheriff in and for Glen Echo Park (KEBAR), who charges William L Griffin late of the County and State on the 30th of June 1960 at the County and State aforesaid did unlawfully violate Article 27 section 577 of the Annotated Code of Maryland, 1957 edition to wit: Did enter upon and pass over the land and premises of Glen Echo Park (KEBAR) after having been told by the Deputy Sheriff for Glen Echo Park, to leave the Property, and after giving him a reasonable time to comply, he did not leave contrary to the form of the Act of the General Assembly of Maryland, in such case made and provided, and against the peace, government and dignity of the State.

You are hereby commanded immediately to apprehend the said William L Griffin and bring him before The Judge of the Peoples Court at Bethesda Montgomery County, to be dealt with according to law. Hereof fail not, and have you there this Warrant:

Edward W. Cashman, Justice of the Peace for
Montgomery County, Maryland.

Issued June 30 1960

C

[fol. D]

No. 3881 Crim.

Cépi Joseph Snow, Jr.

Date 6/30/60

[fol. E]

AMENDED STATE WARRANT—Filed September 12, 1960

State of Maryland, Montgomery County, to wit:

To James S. McAuliffe, Superintendent of Police of said County, Greeting:

Whereas, Complaint hath been made upon the information and oath of Lt. Francis Collins, Deputy Sheriff in and for the Glen Echo Park, who charges that William L. Griffin, late of the said County and State, on the 30th day of June, 1960, at the County and State aforesaid, did unlawfully and wantonly enter upon and cross over the land of Rekab, Inc., a Maryland corporation, in Montgomery County, Maryland, such land at that time having been leased to Kebar, Inc., a Maryland corporation, and operated as the Glen Echo Amusement Park, after having been duly notified by an Agent of Kebar, Inc., not to do so in violation of Article 27, Section 577 of the Annotated Code of Maryland, 1957 Edition as amended, contrary to the form of the Act of the General Assembly of Maryland, in such case made and provided, and against the peace, government and dignity of the State.

You are hereby commanded immediately to apprehend the said and bring before Judge at Montgomery County, to be dealt with according to law. Hereof fail not, and have you there this Warrant.

....., Justice of the Peace for
Montgomery County, Maryland.

Filed 9-12-1960

[fol. F]

3881

D

[fol. G]

[File endorsement omitted]

No. 18112

IN THE PEOPLE'S COURT OF MONTGOMERY COUNTY, MARYLAND
AT BETHESDA

Warrant issued June 30, 1960

By Edward W. Cashman, Justice of the Peace.

To James S. McAuliffe, Supt. of Police.

STATE OF MARYLAND,

vs.

WILLIAM L. GRIFFIN, Defendant.

Upon the information of Lt. Collins, Deputy Sheriff in and for Glen Echo Park, who charges that William L. Griffin on the said 30th day of June, 1960, did unlawfully enter upon and pass over the land and premises of Glen Echo Park, after having been told by the Deputy Sheriff for Glen Echo Park, to leave the property and after giving him a reasonable time to comply, he did not leave contrary to the form of the Act of the General Assembly of Maryland and against the peace, government and dignity of the State.

Return

Commitment for a hearing or trial before the Judge at Bethesda on the 26 day of July, A. D., 1960, with Bond posted as sureties.

Continued to 7/26/60

Trial on the 26th day of July A. D., 1960

Defendant asked the right of trial by Jury. Bond \$100.00 Set for Sept. 12, 1960

Original papers, bond and Docket Entries sent to Circuit Court 8/1/60

Copy of Docket Entries sent to State's Atty.

Deft's Atty: Sharlitt

Samuel Gordon, Judge, People's Court of Montgomery County, Maryland.

E

I hereby certify that the foregoing is a true copy of the Docket Entries in the above entitled case.

Given under my hand and seal this 1st day of August, A. D., 1960.

Louise S. Harding, Clerk, People's Court. Bethesda.

[fol. H]

No. 3881 Crim.

STATE OF MARYLAND,

vs.

WILLIAM L. GRIFFIN.

[fol. I]

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

DOCKET ENTRIES

No. 3881 Criminal

STATE OF MARYLAND,

vs.

WILLIAM L. GRIFFIN.

Trespassing

Aug. 4, 1960—Warrant, Recognizance, Demand for Jury Trial &c. filed. Page No. 1

Sep. 12, 1960—Motion and leave to amend warrant and amendment filed. Page No. 5

Sep. 12, 1960—Motion and leave to consolidate this case with Numbers 3882, 3883, 3889 and 3892 Criminals.

Sep. 12, 1960—Plea not guilty.

F

Sep. 12, 1960—Submitted to the Court and trial before Judge Pugh, Mrs.^o Slack reporting.

Sep. 12, 1960—The Court find defendant guilty.

Sep. 12, 1960—Defendant was asked if he had anything to say before sentence.

Sep. 12, 1960—Judgment that the Traverser, William L. Griffin, pay a fine of Fifty and no/100 dollars (\$50.00) current money and costs, and in default in the payment of said fine and costs, that the Traverser, William L. Griffin be confined in the Montgomery County Jail until the fine and costs have been paid or until released by due process of law.

Sep. 12, 1960—Appeal filed.

Page No. 6

Oct. 13, 1960—Petition and Order of Court extending time for transmittal of record to Court of Appeals to and including November 15, 1960 filed.

Page No. 7

Nov. 15, 1960—Testimony filed.

Page No. 9

L. T. Kardy—State's Attorney

J. H. Sharlitt & C. T. Duncan—Attorneys for Defendant

[fol. 1]

[File endorsement omitted]

**IN THE CIRCUIT COURT FOR
MONTGOMERY COUNTY, MARYLAND**

STATE OF MARYLAND, Plaintiff,

vs.

WILLIAM L. GRIFFIN,	No. 3881 Criminals
MICHAEL A. PROCTOR,	No. 3882 Criminals
CECIL T. WASHINGTON, JR.,	No. 3883 Criminals
MARVOUS SAUNDERS and	No. 3889 Criminals
GWENDOLYN T. GREENE,	No. 3892 Criminals
Defendants.	

Transcript of Hearing—September 12, 1960

APPEARANCES:

Charles T. Duncan, Esq., Joseph Sharlitt, Esq., Attorneys for the Defendants.

James S. McAuliffe, Jr., Assistant State's Attorney, Attorney for the Plaintiff.

[fol. 2]

COLLOQUY

The above-entitled cause came on regularly for hearing, pursuant to notice, on September 12, 1960, at 10:00 o'clock a.m. before The Honorable James H. Pugh, Judge of said Court, when and where the following counsel were present on behalf of the respective parties, and the following proceedings were had and the following testimony was adduced.

Mr. McAuliffe: Your Honor, the State will move to amend the warrants in all five cases, and I have prepared copies of the amendment that we would ask that the Court make to these warrants, and I would ask that in each case the copy which I have prepared be attached to the original warrant, as an amendment to it, and the amendment we desire to make is the same amendment in each case and would read as follows:

Judge Pugh: Have the defense lawyers seen it?

Mr. Duncan: I would like to see it, your Honor. (Mr. McAuliffe hands a copy of the proposed amendment to defense attorneys.) Defense counsel makes no objection to the motion for leave to amend the warrants, your Honor.

Judge Pugh: The motion is granted. Do you desire to make an opening statement?

Mr. McAuliffe: Yes, your Honor.

[fol. 3] Judge Pugh: The pleas are "not guilty?"

Mr. Duncan: Yes, your Honor.

OPENING STATEMENT BY MR. McAULIFFE

In the Court please, the defendants in this case are William L. Griffin, Michael A. Proctor, Cecil T. Washington, Jr., Marvous Saunders and Gwendolyn T. Greene. The State will show that on the date of June 30th of this year the five named defendants, in the company of others, came to the Glen Echo Amusement Park, located here in Montgomery County, Maryland. That upon arriving at the park a representative of the defendants conferred with Lieutenant Collins, who is the man in charge of the park's special police force there, and after that conferral that the five defendants, in the company of others, having brought with them certain signs primarily aimed at the policy of Glen Echo to segregate, and to exclude colored persons, proceeded to set up a picket line and proceeded to walk this picket line with these signs. These signs proclaimed the policy of the park and objected to it and asked, in effect, that persons who were using the park facilities—that they not use the park facilities, unless the park would see fit to integrate. A short time after this picket line had been formed, in which the five defendants in this [fol. 4] case participated—after they had all been informed, through their representative, that the park did have a policy of not admitting colored persons, the five defendants went on to the park property and went to the carousel, which is located approximately in the heart of the Glen Echo Amusement Park, and proceeded to get on the amusement rides, some of them having obtained tickets from

white persons, who had purchased them from ticket sellers within the park.

Thereafter Lieutenant Collins approached the scene where the five defendants were on the carousel, and spoke to each of the defendants and again informed them that it was the park policy not to admit colored persons to the private property owned by the park and operated by the park, and that if they did not leave that he would arrest them for trespass. He then proceeded to give them approximately five minutes, in which time they were asked to leave. At the end of that time he announced to each of the defendants—they all remaining where they had been on the carousel and in the vicinity of the carousel, in the heart of this private property, Glen Echo Amusement Park—he then proceeded to place the defendants under arrest for trespass, under Article 27, Section 577 of the Maryland Code. The defendants after being placed under arrest by Lieutenant Collins, who is a special deputy and sworn in as a Deputy Sheriff of Montgomery County, were brought to the Bethesda station.

[fol. 5] Now, we will show you further that the Glen Echo property and the Glen Echo park, upon which these defendants went, is private property. That it is owned by a corporation, Rekab, Inc. That it is leased by that corporation to another corporation, Kebar, Inc., which operates Glen Echo Park, and we will show you that Lieutenant Collins, as a member of the detective agency, is the employee and agent of both Rekab, Inc., and Kebar, Inc., and especially in this case the warrant alleges, and we will show, that he is the agent of Kebar, Inc. That he had received full authority from the President and the General Manager of the corporation with respect to enforcing the policy of the park, with respect to segregation, and that he had the full authority to maintain order there and to order off any persons which he, in his discretion and judgment, thought should not be present on the park property, and upon this showing and upon the further showing that Rekab, Inc., and Kebar, Inc., are Maryland corporations, licensed and doing business here in the State of Maryland, and upon showing you that this property upon which the defendants entered, and upon being requested to leave,

refused to leave, is in fact private property, owned by Rekab, Inc., and leased to Kebar, Inc., and upon that statement of facts, upon showing that to the Court, we will ask that the Court find these defendants guilty as charged.

[fol. 6]

MOTION TO DISMISS THE WARRANTS AND OVERRULING THEREOF

Mr. Duncan: I would like, with the Court's leave, to reserve the opening statement on behalf of the defendants, and I would like to move to dismiss and quash the warrants. The prosecutor has stated that the arrests in this case were made by a State officer for the purpose of enforcing a policy of private segregation, put into effect and maintained by the owner and lessee of the premises involved. I submit to the Court that such use of State power is unconstitutional. That the application of the statute in this case is unconstitutional. The argument being that the State may not discriminate against citizens on the ground of race and color. It may not do so directly, and it cannot do so indirectly. I further move to dismiss the warrants—

Judge Pugh: The Court is not allowed to direct a verdict on opening statements. If the Court sits without a jury, it is sitting as a jury, and then the Court is the Judge of the law and the facts, so, on opening statements we do not recognize motions for a directed verdict. The motion is over-ruled.

Whereupon, FRANCIS J. COLLINS, a witness of lawful age, called for examination by counsel for the plaintiff, and having first been duly sworn, according to law, was examined and testified as follows, upon

[fol. 7] Direct examination

By Mr. McAuliffe:

Q. Lieutenant, will you identify yourself to the Court?

A. Francis J. Collins; 1207 E. Capitol Street, Washington, D. C.

Q. Lieutenant, by whom are you employed, and in what capacity?

A. I am employed by the National Detective Agency and we are under contract to Kebar, Inc., and Rekar, Inc.

Mr. Duncan: I object to that answer, and move to have it stricken.

Judge Pugh: On what ground?

Mr. Duncan: That this witness is not competent to testify as to the contents of the contract. The contract itself is the best evidence.

Judge Pugh: Objection sustained.

Q. By whom are you employed, Lieutenant Collins?

A. National Detective Agency.

Q. And where are you stationed, pursuant to your employment with the National Detective Agency?

A. My present assignment is Glen Echo Amusement Park.

Q. And at Glen Echo Amusement Park from whom do [fol. 8] you receive your instructions?

A. From the Park Manager, Mr. Woronoff.

Q. And for how long have you been so assigned at the Glen Echo Amusement Park?

A. Since April 2nd, 1960.

Q. What is your connection and capacity with respect to the park special police force there?

A. I am the head of the special police force at the park.

Q. What instructions have you received from Mr. Woronoff, the Park Manager, with respect to the operation of the park and your duties in connection therewith?

Mr. Duncan: Objection. The authority of an agent cannot be established by the testimony of the witness.

Judge Pugh: Objection sustained.

Q. Now then, Lieutenant, directing your attention to the date June 30, 1960, did you have occasion to be at the Glen Echo Park at that time?

A. I was on duty on that date.

Q. And the Glen Echo Amusement Park is located in what County and State?

A. Montgomery County, Maryland.

Q. Directing your attention again to June 30, 1960, at [fol. 9] a time when you were on duty at Glen Echo Amuse-

ment Park, did you have occasion to see the five defendants in this case on that date?

A. I did.

Q. Will you relate to the Court the circumstances under which you first observed these five defendants at the Glen Echo Amusement Park?

Mr. Duncan: I object to that question, on the ground that it is irrelevant, until the agency of this witness has been established.

Judge Pugh: Do you proffer to show that?

Mr. McAuliffe: We proffer to show agency.

Judge Pugh: On the proffer the objection is over-ruled.

A. I did observe the defendant in the picket line, carrying signs.

Q. When was this picket line first established, Lieutenant, and under what circumstances?

Mr. Duncan: I object to that question, on the ground that it is not relevant, in my opinion. What went on outside the park has nothing to do with the issues involved here.

[fol. 10] Judge Pugh: Was this picket line on the property of the Glen Echo Amusement Park?

A. No, sir, it was on the right of way.

Judge Pugh: It wasn't on private property?

A. No, sir.

Judge Pugh: Objection sustained.

Q. Now, Lieutenant, what first communication, or contact, did you have with the five defendants here, and what were they doing at that time?

Mr. Duncan: I object, your Honor. That is the same question, if I understand it correctly.

Judge Pugh: The objection is over-ruled.

A. The defendants broke from the picket line and went from the picket line—

Judge Pugh (interrupting the witness): Just tell when they came on to the private property of the Glen Echo Amusement Park.

A. Approximately 8:15.

Judge Pugh: All five of them?

[fol. 11] A. Yes, sir.

Judge Pugh: All right. Start from there.

Mr. McAuliffe: The warrant in this case charges a wanton trespass and, for purposes of showing that, I think the State should be permitted to show that they did, in fact, carry signs, proclaiming the policy of the park, and that they were aware of the policy of the park.

Judge Pugh: There is no law against carrying signs; is there?

Mr. McAuliffe: We have a right, I think, to show that they knew the policy of the park with respect to segregation at the time.

Judge Pugh: I just want to know if there was any trespass under the statute.

Q. What, if anything, occurred then?

Judge Pugh: On the property of Glen Echo Amusement Park.

A. The five defendants went down through the park to the carousel and got on to the ride, on the horses and the different animals. I then went up to Mr. Woronoff and asked him what he wanted me to do. He said they were trespassing and he wanted them arrested for trespassing, if they didn't get off the property.

Q. What did you tell them to do?

A. I went to the defendants, individually, and gave [fol. 12] them five minutes to get off the property.

Mr. Duncan: I object and move to have that answer stricken. It is not relevant.

Judge Pugh: The objection is over-ruled.

Q. Then, Lieutenant, will you relate the circumstances under which you went to the carousel, and what you did when you arrived there with respect to these five defendants?

A. I went to each defendant and told them—

Q. (interrupting the witness) First of all, tell us what you found when you arrived there. Where they were, and what they were doing.

A. Each defendant was either on a horse, or one of the other animals. I went to each defendant and told them it was private property and it was the policy of the park not to have colored people on the rides, or in the park.

Q. Now, will you look upon each of the five defendants and can you now state and identify each of the five defendants seated here as being the five that you have just referred to?

A. These are the five defendants that I just referred to.

Mr. Duncan: I would object to that and ask that he be required to identify each defendant individually. These are five separate warrants.

Judge Pugh: Can you identify each one of these defendants individually?

[fol. 13] A. Yes.

By Judge Pugh:

Q. Did you tell them to get off the property?

A. Yes.

Q. What did each one of them say when you told them that?

A. They declined to leave.

Q. What did they say?

A. They said they declined to leave the property. They said they declined to leave and that they had tickets.

Mr. Duncan: I renew my objection. There has been no individual identification of these defendants.

Judge Pugh: He recognizes these defendants. He didn't know their names at the time. The objection is over-ruled.

Direct examination (continued).

By Mr. McAuliffe:

Q. Lieutenant, will you step down there and point to each of the defendants that you recognize as being one of

the five persons you saw there that night. (The witness leaves the witness stand and approaches defendants' table.)

A. This gentleman here.

Mr. McAuliffe: Can we stipulate as to that, or may he rise and give his name? Can we have the record show that the Lieutenant is now pointing to the first of the five defendants seated here?

[fol. 14] (The witness continues) Also this gentleman here; this gentleman here; this one here, and this one here.

Mr. McAuliffe: Let the record show, if the Court please, that Lieutenant Collins has pointed to each of the five defendants seated here, and pointed them out.

Mr. Duncan: I would like to object to that procedure, and again move that it be stricken. We did not oppose the State's motion to consolidate these cases, and for that reason the five defendants are here, seated at the table, and it is very easy for the witness to say "Oh, yes, these are the five I arrested", but I submit in a proceeding—

Judge Pugh (interrupting counsel): Lieutenant Collins, is there any doubt in your mind that these five defendants are the five persons that you ordered off the Glen Echo property?

A. No doubt whatsoever.

Judge Pugh: Objection over-ruled.

Examination of the witness (resumed).

By Mr. McAuliffe:

Q. How long did you wait after ordering the five defendants off the property, before taking any further action?

A. Exactly five minutes.

Q. During that time what, if anything, occurred?

A. I walked outside the carousel and the five defendants remained on the ride, and the ride didn't move.

Judge Pugh: Did you ask them who purchased the tickets [fol. 15] to that carousel?

A. They told me they had tickets that had been purchased by white people.

By Judge Pugh:

Q. Who—which one told you that?

A. Saunders. The man with the glasses.

By Mr. McAuliffe (continued):

Q. Lieutenant, I show you this photograph and ask you if you recognize that picture?

A. I do.

Q. And what is that picture?

Mr. Duncan: I object to that, your Honor. I don't see the relevancy of it.

Judge Pugh: He has just asked him what it is. You may object to it when he offers it in evidence.

A. This is a picture of me, warning Saunders about the park's policy.

Q. When was that taken?

A. At 8:15 p.m. on the carousel.

Judge Pugh: Who took the picture?

A. A Star newspaper reporter.

By Mr. McAuliffe:

Q. And is that picture a fair and reasonable representation of the scene that you have just testified to, when you warned the defendant, Saunders?

[fol. 16] A. It is.

Mr. McAuliffe: We offer this into evidence as State's Exhibit Number One.

Mr. Duncan: Your Honor, I object to this. This is a photograph of two individuals, one of whom apparently is Lieutenant Collins, and the other, apparently, the defendant, Saunders. Lieutenant Collins testifies that this is a photograph of him, while he was warning the defendant,

and I submit the photograph does not support any statement of warning whatsoever.

Judge Pugh: Lieutenant, did you ask any of these defendants whether or not they saw the signs before they came on the property?

A. No, sir.

Q. You don't know whether they saw the sign or not?

A. I didn't ask them.

Q. Is the sign in a conspicuous place, where anybody going into the park property can see it?

A. Yes, sir.

Q. Where is it?

A. There are eight signs at the different entrances.

Mr. Duncan: I object to your Honor's statement. I do not believe there has been any testimony that any signs were present. My objection is that the picture is not relevant, for the reason that if it is offered to show that a warning was given, that picture doesn't show it. One can [fol. 17] not tell from that picture whether Saunders is talking to Collins, or Collins is talking to Saunders. Whether they are having a pleasant conversation or not.

Judge Pugh: Was this taken on the property of the Glen Echo Amusement Park?

A. Yes.

Q. Was it at the time of your notification to get off the property?

A. Yes.

Q. Who took the picture?

A. The Star Reporter. I didn't know the picture was being taken.

Q. How did you get it?

A. They sent it to me.

Judge Pugh: The objection is over-ruled. Admit it in evidence as State's Exhibit Number One.

Examination of the witness (resumed).

By Mr. McAuliffe:

Q. Lieutenant, during the five minutes that you testified you waited after warning the defendants, and they remained on the amusement facilities, what, if anything, occurred with respect to other people in the park?

Mr. Duncan: Objection, your Honor; that is not relevant.

Judge Pugh: What is the purpose of it?

Mr. McAuliffe: To show that the Lieutenant's actions [fol. 18] were completely reasonable under the circumstances.

Judge Pugh: Objection sustained.

Q. During the five minute period that you testified to after you warned each of the five defendants to leave the park premises, what, if anything, did you do?

A. I went to each defendant and told them that the time was up and that they were under arrest for trespassing. I then escorted them up to our office, with a crowd milling around there, to wait for transportation from the Montgomery County Police, to take them to Bethesda to swear out the warrants.

Mr. Duncan: At this point I renew my Motion to quash the warrants.

Judge Pugh: The motion is denied.

Mr. Duncan: May I state what the grounds are, your Honor?

Judge Pugh: You can state that at the end of the case.

Mr. Duncan: I am required to state this at the beginning.

Judge Pugh: You have stated your Motion and the Court has ruled on it. You may argue it to the Court of Appeals.

Examination of the witness (resumed).

By Mr. McAuliffe:

Q. Lieutenant, I show you this plat, and ask you if you know what that plat is?

[fol. 19] A. This is a plat of the property that Glen Echo occupies in Montgomery County.

Q. Is that the Glen Echo Amusement Park that you refer to?

A. Yes, sir.

Mr. McAuliffe: May we have this plat marked for identification as State's Exhibit Number Two?

Judge Pugh: It may be marked for identification.

Q. Lieutenant, referring to that plat, State's Exhibit Two for identification, can you point to the spot, or establish on that plat the spot where the defendants were at the time you referred to when they were on the carousel?

Mr. Duncan: I object to that, your Honor. The plat has not been offered into evidence.

Mr. McAuliffe: We proffer to offer the plat in evidence, but we do not seek to show the markings to the Court at this time. We will call our next witness to establish the authenticity of the plat.

Mr. Duncan: I object, your Honor.

Judge Pugh: Pass over that question at the present time and call him back after the survey has been introduced.

By Mr. McAuliffe (continued):

[fol. 20] Q. Lieutenant, immediately prior to the time that these five defendants entered on to the property of the Glen Echo Park, what signs were they carrying?

Mr. Duncan: I object to that, on the same ground. What they were doing on a public street is not relevant.

Judge Pugh: Did they carry the signs on the property of the Glen Echo Park?

A. No, sir.

Mr. McAuliffe: The warrants have charged a wanton trespass. If the defendants intend to claim that the defendants were not aware of the policy of the park—

Judge Pugh (interrupting counsel): We are trying a simple trespass case. We do not care what signs they carried off the property. We are not trying a racial case. We are trying a simple trespass case under the statute. The objection is sustained.

Examination of the witness (resumed).

By Mr. McAuliffe:

Q. Lieutenant, how were you dressed at the time you approached the defendants and when you warned them?

A. I was in uniform.

Q. What uniform was that?

A. Of the National Detective Agency; blue pants, white shirt, black tie and white coat and wearing a Special Deputy Sheriff's badge.

Q. What is your position, or capacity, with respect to [fol. 21] being a Deputy Sheriff? Are you, in fact, a Deputy Sheriff of Montgomery County?

A. I am a Special Deputy Sheriff of Montgomery County, State of Maryland.

Q. And specifically by what two organizations are you employed?

A. Rekab, Inc., and Kebar, Inc.

Mr. McAuliffe: You may cross-examine.

Mr. Duncan: Is it my understanding that this witness' duties have been admitted, subject to proof?

Judge Pugh: Subject to agency. Agency has not been established yet. I sustained the objection on that proffer.

Cross examination.

By Mr. Duncan:

Q. You just said you are employed by Rekab, Inc., and Kebar, Inc., is that correct?

A. I am employed by the National Detective Agency and they have a contract with Kebar, Inc., and Rekab, Inc.

Q. Who pays your salary?

A. The National Detective Agency.

Q. And do you have any other income from any other source?

A. No, sir.

Q. Do you receive any money directly from Rekab, Inc., or Kebar, Inc.?

[fol. 22] A. No, sir.

Q. Your salary, in fact, is paid by the National Detective Agency; is that correct?

A. Yes.

Q. What kind of agency is that?

A. A private detective agency.

Q. Is it incorporated?

A. Yes, sir.

Q. In what State?

A. The District of Columbia.

Q. Are you an officer of that corporation?

A. No, sir.

Q. Are you an officer of either Rekab, Inc., or Kebar, Inc.?

A. No, sir.

Q. Mr. Collins, you testified that you saw these defendants prior to the time they entered the park; is that correct?

A. Yes, sir.

Q. Had you ever seen them before?

A. No, sir.

Q. When you saw them inside the park, did you recognize them as the persons you had seen outside the park?

A. Yes, sir.

Q. Now you stated that you told them it was the policy of the park not to admit colored people. Is that, in fact, the policy of the park?

A. Yes.

[fol. 23] Q. Has it always been the policy of the park?

A. As far as I know.

Q. How long had you worked at Glen Echo Park?

A. Since April 2, 1960.

Q. And before that time were you employed by the National Detective Agency?

A. That is right.

Q. But you were assigned to a place other than Glen Echo?

A. That is right.

Q. To your knowledge, had negroes previously ever been admitted to the park?

A. Not to my knowledge.

Q. Now did you arrest these defendants because they were negroes?

Mr. McAniffe: Objection.

Judge Pugh: Over-ruled.

A. I arrested them on orders of Mr. Woronoff, due to the fact that the policy of the park was that they catered just to white people; not to colored people.

Q. I repeat my question. Did you arrest these defendants because they were negroes?

A. Yes, sir.

Q. Were they in the company of other persons, to your knowledge?

A. Yes, sir.

[fol. 24] Q. Were they in the company of white persons?

A. Where?

Q. When they were on the carousel.

A. There were white persons on the carousel when they were there.

Q. To your knowledge, were they in the company of white persons?

A. One white person was with one of the colored people.

Q. With which colored person was the white person with?

A. This gentleman right here (indicating one of the defendants).

Q. Do you know his name?

A. No, I don't know.

Q. Did you arrest the white person who was in his company?

A. No, sir; I did not.

Q. Why not?

A. At the time we got back to the carousel, she had left. By the time I had these defendants out, she had gone, as far as I know.

Q. Does this policy of Glen Echo Park extend to all negroes, no matter who they are?

Mr. McAuliffe: Objection.

Mr. Duncan: I will rephrase it.

[fol. 25] Q. Does it extend to negroes, without regard to how they are dressed, or how they conduct themselves?

Mr. McAuliffe: Objection.

Judge Pugh: Over-ruled.

Mr. Duncan: Will the Reporter read the question, please?
(the last question was read back).

A. Yes; that is right.

Q. Did it come to your attention, Mr. Collins, that these defendants had tickets when they were arrested?

A. They showed me tickets.

Q. Did you make any offer to these defendants with respect to the tickets which they had? Did you offer to refund them any money?

A. No, sir.

Q. Are you familiar with the manner in which tickets are acquired and sold at Glen Echo Amusement Park?

A. Yes, sir.

Q. Will you tell the Court how that is?

A. They are sold through ticket booths.

Q. Are the ticket booths located inside the park, or are they located at the entrance?

A. Inside the park.

Q. Is there any ticket booth at the entrance to the park?

A. No.

[fol. 26] Q. So the access to the park from the public highway is not obstructed?

A. No, sir.

Q. Now, if you know, is it customary at the park for one person to purchase tickets and transfer them to another?

A. I would not know.

Q. Are you ever at the park, Mr. Collins?

A. Yes.

Q. Have you ever observed tickets being purchased?

A. Yes. I have.

Q. Have you ever seen a father purchase tickets and give them to his children?

A. Yes.

Q. Then you do know that that is done; is that correct?

A. In that case; yes.

Q. Do you know of any other cases in which it is done?

A. No.

Q. Mr. Collins, you testified that you recognized these defendants as being the persons you arrested.

A. That is right.

Q. Do you know the name of any one of them?

A. Yes.

Q. Which ones do you know by name?

A. Marvin Saunders.

Q. What is his name?

A. Marvin Saunders.

Q. I am asking you what you know of your own knowledge.

A. Right now one is all I know.

[fol. 27] Q. And you know him as Marvin Saunders, is that your answer?

A. Yes, sir.

Q. At the time you arrested Mr. Saunders, did you know his name?

A. No.

Q. Had you ever seen him before?

A. Yes, sir.

Q. Where?

A. In the picket line.

Q. You don't know the names of any of the other defendants who are seated at this table?

A. Not sitting right here, but I have the facts in my briefcase here.

Q. My question is, do you know the names of any of the other defendants who are seated at this table?

A. Only Saunders.

Q. Since you don't know Mr. Griffin, on the end there, you don't know whether or not he has a brother; is that correct?

A. I don't know.

Q. Are you positive it was Mr. Griffin you arrested, and not some other person?

A. Yes, sir.

Q. How do you know Mr. Griffin was on the carousel?

A. I saw him there.

Q. How do you remember that you saw this person? There were a lot of people in the park, weren't there?

[fol. 28] A. I was concentrating on these people here at the time.

Q. Were there other people on the carousel?

A. Not colored people.

Q. Were these the only five people in the immediate vicinity?

A. No.

Q. There were other people in the immediate vicinity?

A. Yes.

Q. I want you to tell the Court how you know that Mr. Griffin was on the carousel?

A. I went up to him and told him what the situation was, and I looked at him, and I could see that it was him.

Q. How do you know that it was this man here?

Mr. McAuliffe: I object to this.

Judge Pugh: It is proper cross-examination. Objection over-ruled.

Q. How do you know it was this person here?

A. I recognize him as being the man that was on the carousel.

Q. Were there any negroes on the carousel who were not arrested?

A. Not to my knowledge.

Q. Are you sure?

A. If they were on there, I didn't see them.

Q. If you had seen them, would you have arrested them?

A. Yes, sir.

Judge Pugh: Do you mean just because they were negroes?

[fol. 29] A. Due to the fact that the park is operated on a segregated policy.

Judge Pugh: Would you tell them to get off the property?

A. No. I would notify them they were on private property, and it was not the policy of the park to have negroes in the park.

Cross examination (continued).

By Mr. Duncan:

Q. The next gentleman here now, Mr. Proctor—how do you know Mr. Proctor was on the carousel?

A. Because I talked to him.

Q. And because you talked to him, you know he is the same person who is seated here?

A. Yes.

Q. Was there something distinguishing about his face that made you remember him?

A. No.

Q. Have you talked with him since?

A. No.

Q. Why did you ask this defendant to leave the carousel?

A. Because he was on private property, and the park is segregated.

Q. You said the park was segregated against negroes; is that correct?

A. Yes.

Q. Did you ask him if he was a negro?

A. No, sir.

Q. How did you know he was a negro?

[fol. 30] A. He has the appearance, and all.

Q. Can you say he is not a Romanian?

A. I can't say.

Q. Can you say he is not a Filipino?

Mr. McAuliffe: I object to this. I don't think it is proper. He was warned and he didn't leave.

Judge Pugh: He said he arrested these defendants because they were negroes. In view of that answer I will allow the question.

Q. Did you ask him if he were a negro?

A. No.

Q. Do you now know what his race is?

A. I believe he is a negro.

Q. Why do you believe that?

A. Outward appearance.

Q. Could his outward appearance purport his being a member of any other race, Mr. Collins?

A. I would not know.

Q. Well then, you couldn't say that he was a negro seated there, could you? Have you ever seen a person from the Philippine Islands?

A. Yes.

Q. From Hawaii?

A. Yes.

Q. From Pakistan?

A. Yes.

Q. Have you ever seen anyone from any of those countries [fol. 31] tries who looked like this person here?

A. I don't know what you mean.

Q. I want to find out what your policy is in determining negroes by sight.

A. I don't get your question.

Q. You stated to me, Mr. Collins, that you did not ask Michael Proctor whether he was a negro or not.

A. Yes.

Q. You further testified that you arrested him because he was a negro.

A. Yes.

Q. And I asked you how you knew he was a negro.

A. He didn't deny it.

Q. Did you ask him?

A. No, sir.

Q. You further testified that you thought he was a negro because of his outward appearance; is that correct?

A. Yes.

Q. I am asking you on what basis you concluded, on the strength of his appearance, that he was a negro and not an Armenian, a Tunisian, an Arabian, an Egyptian, or a native of some other country?

A. When I told him of the policy of the park—that negroes were not allowed in the park—he didn't deny it.

Q. Did he say anything?

A. He declined to leave the park.

Q. Did he say anything with respect to his racial identity? [fol. 32]

A. No, sir.

Q. Are you now prepared to say that he is a negro?

A. He didn't deny that he was a negro.

Q. I didn't ask you that. I asked you if you are now prepared to say that Michael Proctor is a negro?

A. In my estimation, he is.

Q. In your opinion he is a negro?

A. In my opinion, yes.

Q. But you are not sure, are you Mr. Collins?

A. I am sure of my opinion.

Q. But you are not sure of his race, are you?

Mr. McAuliffe: I object.

Judge Pugh: The objection is over-ruled.

A. I cannot prove that he is.

Q. You can't prove that he is a negro?

Judge Pugh: He didn't deny that he was a negro?

A. No, he didn't.

Mr. Duncan: Your Honor, I hope we are not at the point where we are under duty to deny being a negro, if such a statement is made.

Q. Mr. Collins, at the time that you first spoke to these defendants, did each one of them tell you that they were holding tickets to ride the device you took them off of?

A. No, sir.

[fol. 33] Q. Did Mr. Griffin tell you that he had a ticket?

A. No, sir; he did not.

Q. Did Mr. Proctor tell you that he had a ticket?

A. He had one in his hand.

Q. Did he offer it to you, or extend it?

A. No.

Q. How did you know he had it?

A. I saw it in his hand.

Q. What about Mr. Saunders? Did he tell you he had a ticket?

A. I didn't see a ticket.

Q. What about Miss Greene, did—

A. I didn't see her ticket.

Q. Let me finish my question, please. Did she say anything to you about having a ticket?

A. No, sir.

Judge Pugh: What kind of ticket was it?

A. An admission to the ride ticket.

Judge Pugh: You mean on the carousel?

A. Yes, sir.

Judge Pugh: You got on the carousel and they were seated on it?

A. Yes, sir.

Judge Pugh: And they had a ticket in their hands?

A. No, sir.

[fol. 34] Judge Pugh: Was the ticket taken up by the ticket collector?

A. No, sir.

Examination of the witness (resumed).

By Mr. Duncan:

Q. How about Mr. Washington? Did you see him with a ticket, or talk to him about a ticket?

A. No.

Q. Is it your testimony that the only ticket you saw was the one held by Mr. Proctor?

A. Yes.

Q. Is it your testimony that only Mr. Proctor had a ticket?

A. As I recall it.

Q. Is there some question in your mind? You were very definite about the identification.

A. He had a ticket in his hand. He may have had more than one ticket. He was holding it up on the rail and I was standing on the ground.

Q. You didn't see tickets in the hands of any of the others?

A. I didn't notice them.

Q. But it is your testimony that they did not tell you they had tickets?

A. They did not.

Q. Describe the conduct of the defendant, Griffin; the gentleman sitting next to you, from the time you first saw him in the Glen Echo property until the time you placed him under arrest.

[fol. 35] A. When I saw him on Glen Echo property, he was on the carousel.

Q. That was the first time you saw him?

A. On Glen Echo property, yes.

Q. How was he dressed?

A. That I do not recall.

Q. You don't recall how he was dressed?

A. Not exactly.

Q. Did he have on a suit?

A. I don't recall.

Q. Shirt and tie?

A. I don't recall.

Q. Sport shirt?

A. I don't recall that.

Q. But you recall that it was this person; is that right?

A. Yes.

Q. Tell me what he was doing when you first saw him, sir.

A. When I first saw him he was on the carousel.

Q. Tell me what he was doing. Was he standing, holding the railing, or sitting on a horse?

A. He was seated on one of the animals.

Q. Which animal; what type?

A. I don't recall.

Q. You don't recall how he was dressed, but you recall him; is that right?

A. Yes, sir.

[fol. 36] Q. Was this a moving horse, or a stationary horse?

A. It was stationary at the time.

Q. The question was, was it a device that moved, up and down, when the carousel was in motion?

A. Most of them do move when the carousel is in operation.

Q. Was he seated astride the horse?

A. I didn't say horse; he was astride one of the animals.

Q. Was he talking to anyone?

A. I believe he was talking to a white girl who was seated opposite him; on the horse beside him.

Q. Did you overhear that conversation?

A. No.

Q. How far away were you?

A. Three feet, probably.

Q. And you couldn't overhear the conversation? He was apparently talking softly then?

A. The music was going.

Q. Did he have anything in his possession other than the ticket you say you saw?

A. Not that I recall.

Q. Would you say, Mr. Collins, that his conduct was peaceful and orderly?

A. At the time I spoke to him.

Q. He didn't become disorderly at any time, in fact, did he?

A. No, sir.

[fol. 37] Q. There was no loud talking?

A. Not that I know of.

Q. And certainly no one was drunk or intoxicated, or anything like that?

A. I wouldn't know.

Q. You arrested them, didn't you?

A. You said no one.

Q. No one of these defendants were intoxicated, were they?

A. As far as I know; no.

Q. You had occasion to talk to each one of them, didn't you?

A. Yes.

Q. Can't you say whether any of them had been drinking or not?

A. No.

Q. Have you had occasion to arrest people for being intoxicated in Glen Echo?

A. Yes.

Q. You are a police officer, aren't you?

A. Yes.

Q. Don't you claim some expert knowledge of such matters?

A. Yes; by their actions.

Q. Based on the actions of these people can't you say that they were not, in fact, intoxicated?

A. As far as I know they were not intoxicated.

[fol. 38] Q. You were very quick to judge this gentleman's race by his appearance. I would like your opinion as to his state of sobriety.

Mr. McAuliffe: Objection.

Judge Pugh: He said they were not intoxicated and did not appear to be. The objection is sustained. Did you smell any odor of alcohol on any of them?

A. No, sir.

Examination continues.

By Mr. Duncan:

Q. You testified that the defendant, Griffin, was peaceful and orderly. Was the same true as to all the other defendants?

A. Yes.

Q. At all times throughout?

A. Yes, sir.

Q. At the time you arrested them, Mr. Collins, did any of them ask to speak to the management?

A. No, sir.

Q. Did any of them tell you that they wanted to ride on the merry-go-round?

A. Yes, sir.

Q. Let's take Mr. Washington, here on the end. Tell me the conversation you had with him at the time you arrested [fol. 39] him and what he said to you.

A. As far as I recall there was no conversation between any of us, only I told them about the policy of the park and they answered me that they weren't going to leave the park.

Q. I am talking about Mr. Washington here on the end. I want to know what you told Mr. Washington.

A. I told him that he was on private property and it was the policy of the park not to cater to negroes and I ordered him off the park property.

Q. Where was he at the time you told him that?

A. On one of the animals on the carousel.

Q. What did he say to you?

A. After five minutes he refused to leave.

Q. He said to you after five minutes that he refused to leave? Is that your answer? I don't want to confuse you. I want to know what he said to you in response to your statement to him.

A. He said he wouldn't leave.

Q. Did he make any statement to you?

A. No.

Q. He remained mute; is that correct?

A. He told me he wasn't getting off the animal; whatever animal he was on.

Q. I repeat my question. Will you tell me what Mr. Washington said to you in response to your initial statement to him?

[fol. 40] A. As far as I recall, he just told me that he wasn't going to get off the carousel.

Q. Did he say anything else?

A. Not that I recall.

Q. Did he tell you that he wasn't going to get off the carousel?

A. Yes.

Q. How was he dressed?

A. I believe he had a sport shirt on.

Q. Let's take Miss Greene; where was she when you talked to her?

A. She was on the carousel.

Q. Do you recall where?

A. Yes; on one of the animals.

Q. What did you say to her, Mr. Collins?

A. I told her the policy of the park, and ordered her off the carousel, and off the property.

Q. And what did she say to you?

A. I believe she said she had a ticket. I don't recall what else.

Q. What about Mr. Saunders? Where was he at the time you arrested him?

A. On the carousel, on one of the animals.

Q. What did you say to him?

A. I told him the policy of the park and ordered him off [fol. 41] the property.

Q. And what did he say?

A. He refused to get off the animal, and I told him I would give him five minutes to do it.

Q. What did he say, Mr. Collins?

A. He said "I am not getting off."

Q. They all said pretty much the same thing; is that right?

A. Yes; as far as I know.

Judge Pugh: How did you get him off the animal?

A. I told him he was under arrest and he got down.

Judge Pugh: Did you grab him by the arm?

A. I didn't have to; he got off.

Judge Pugh: And then did you take them to the office?

A. To our office to await transportation.

Judge Pugh: Is that where you swore out the warrant?

A. No; at the sub-station in Bethesda.

The examination (continued).

By Mr. Duncan:

Q. You testified that you saw each of these five individuals before they entered the park; is that correct?

A. Yes.

[fol. 42] Q. On the 30th of June, 1960, where did you have your first conversation with the defendant, Griffin?

A. On the carousel.

Q. Did you have any conversation with any of the other four defendants prior to your conversation on the carousel?

A. No, sir.

Q. No doubt about that then?

A. No, sir.

Mr. Duncan: I have no further questions.

Redirect examination.

By Mr. McAuliffe:

Q. Did you have any conversation with anyone who identified himself as being the representative of the other five defendants?

Mr. Duncan: Objection.

Judge Pugh: Was that in the presence of these five defendants?

Mr. McAuliffe: It was very close to these defendants.

Judge Pugh: Did someone appear in behalf of these five defendants, who were not individually present at the time you had the conversation with him?

A. Yes, sir.

Judge Pugh: Was it in the hearing of these five defendants?

A. They were walking and he was standing still.

Judge Pugh: Where were they walking to? To the office [fol. 43] where you placed them under arrest?

A. No, the situation is this—

Judge Pugh (interrupting the witness): Was it before or after the arrest?

A. Before the arrest.

Judge Pugh: On the park property?

A. I was on park property and this other individual was on government property.

Judge Pugh: The objection will be sustained. He was off the property.

Examination of the witness (continued).

By Mr. McAuliffe:

Q. Referring to this gentleman seated on the end. What characteristics that he possesses, in your opinion, led you to believe that he was a negro?

A. His color.

Q. What is his color?

A. Black.

Q. And are there any other characteristics that he has which led you to believe that he is a negro?

A. His eyes.

Q. What about his eyes?

A. They are black.

Q. What about his hair?

A. Curly. Kinky.

[fol. 44] Q. Now then, Lieutenant, you warned these defendants, because they were negroes, to leave the park; is that correct?

A. Yes.

Q. Did you arrest them because they were negroes, or because they refused to heed your warning to leave the park?

Mr. Duncan: I object to that. He has already testified that he arrested them because they were negroes.

Judge Pugh: It is a leading question; objection sustained.

Q. Exactly why did you arrest these five defendants?

Mr. Duncan: Objection. That question has been answered before.

Judge Pugh: Objection over-ruled.

A. They were trespassing and refused to leave the property.

Judge Pugh: Not because they were negroes? I thought you testified, on cross-examination, that you arrested them because they were negroes. Is that why you arrested them.

A. They were negroes and refused to leave the property.

Judge Pugh: Do you want to change your testimony on cross-examination now?

[fol. 45] A. No, sir.

Judge Pugh: Well, what did you mean when I asked you if you arrested them just because they were negroes? Is that the sole reason?

A. No, sir; they wouldn't leave the property.

Judge Pugh: There were other reasons then?

A. Yes.

By Judge Pugh:

Q. What were the other reasons?

A. They would not leave the property.

Mr. Duncan: I wonder if that answer should not be stricken; on the grounds that it seems to me the prosecutor is now impeaching his own witness.

Judge Pugh: Over-ruled.

Examination of the witness (resumed).

By Mr. McAuliffe:

Q. Are you familiar with the policy of the ticket sellers at Glen Echo on Glen Echo property with respect to selling to negroes?

A. Yes.

Q. What is that policy?

A. They do not sell to negroes.

Judge Pugh: We are not trying a racial case.

[fol. 46] Q. Did you ascertain whether either one of these five defendants had, in fact, purchased a ticket for a ride on the carousel on June 30th?

A. They did not purchase them, as far as I know.

Judge Pugh: What did they do with the tickets they had in their hand?

A. They kept them.

Q. You didn't take them up?

A. No.

Q. How much were they worth?

A. I think five cents apiece.

Examination of the witness (continued).

By Mr. McAuliffe:

Q. At any time did you note the names of the five persons you arrested?

A. Yes, sir.

Q. When did you do that, Lieutenant?

A. At Bethesda.

Q. And on what did you note these names?

A. First on the warrants and then on our arrest cards.

Q. Do you have the arrest cards with you that were prepared in connection with these defendants?

A. Yes, sir.

Q. By referring to the cards, can you identify them by name?

A. Yes, sir.

[fol. 47] Q. What are their names?

Mr. Duncan: Could we see what he has in his hand?

Judge Pugh: Is that the record that you made?

A. The clerk did.

Q. Was it made under your direction?

A. Yes.

Q. Was it made at the time you arrested them?

A. Yes.

Judge Pugh: You may look at it. (Defense counsel takes the paper from witness and examines it.) Is it necessary for you to look at that piece of paper in order to refresh your recollection?

A. Yes, sir, it is.

Mr. Duncan: Your Honor, these cards contain certain information. May I ask the witness where that information came from?

Judge Pugh: They aren't going into evidence. The witness is using them for the purpose of refreshing his recollection.

Examination of the witness (resumed).

By Mr. McAuliffe:

Q. Having refreshed your recollection as to the names of these defendants that were arrested on June 30th, what are their names?

[fol. 48] A. Cecil T. Washington, Jr., Michael A. Proctor, William L. Griffin, Gwendolyn T. Greene and Marvous Saunders.

Q. You testified on cross-examination, Lieutenant, that these defendants were peaceful and orderly while they were on the carousel, after you had warned them and during that five minute interval that you gave them before arresting them. Were there any persons admitted to the park and in the immediate vicinity of these five defendants, who were not peaceful and orderly at the time?

Mr. Duncan: We object.

Judge Pugh: Did these defendants have any other people with them?

A. There was a large crowd around them from the carousel up to the office.

By Mr. McAuliffe (continued).

Q. And prior to the arrest, during this five minute interval that you gave them as a warning period, was there a crowd gathering at that time?

A. Yes, sir.

Q. And what was the condition, or orderliness, of that crowd as it gathered there?

Mr. Duncan: I object to that question, your Honor. Mr. Collins has testified that he arrested these persons for no [fol. 49] other reason than that they were negroes, and gave them five minutes to get off the property.

Judge Pugh: Was there any disorder?

A. It started a disorder because people started to heckling.

Judge Pugh: They weren't connected with these defendants, were they?

A. No, sir.

Judge Pugh: Objection sustained.

Mr. McAuliffe: That concludes our examination of Lieutenant Collins, subject to a right to recall him for purposes of identifying the location on the plat.

Recross examination.

By Mr. Duncan:

Q. You said you were able to identify Mr. Griffin by his appearance, which you described as "black", "black eyes and kinky hair;" is that the way you tell negroes?

A. Either that or ask them.

Q. One of those two ways?

A. Yes.

Q. And by your definition, all negroes look pretty much [fol. 50] alike to you, don't they?

A. Pretty near.

Q. Mr. Collins, do you hold any degrees from any college or university?

A. No, sir; I don't.

Q. Have you ever taken any courses of study from any colleges or universities in the field of sociology or anthropology?

A. No, sir.

Q. Have you ever done any reading on those subjects, as a hobby or vocation?

A. No, sir.

Q. In light of your answer to Mr. McAuliffe, that you knew that Mr. Griffin was a negro for the reasons that you gave, how did you know that Mr. Proctor was a negro?

A. He didn't deny it.

Mr. Duncan: I have no further questions.

Mr. McAuliffe: That is all I have.

(Short recess.)

[fol. 67] ABRAM BAKER, a witness of lawful age, called for examination by counsel for the plaintiff, and having first been duly sworn, according to law, was examined and testified, upon

[fol. 73]

Direct examination.

By Mr. McAuliffe (continued):

Q. Directing your attention to this lease, State's Exhibit #7, Mr. Baker, I ask you whether that lease was in effect on the date of June 30th of this year?

A. Yes, sir; it was.

Q. Now, as President of Rekab, Inc., and Kebar, Inc., will you describe what policy is maintained by the two respective corporations with respect to the admission of negroes to the Glen Echo Amusement Park?

A. I don't get your question.

Q. What policy is maintained by Rekab, Inc., and Kebar, Inc., with respect to the admission of negroes to the amusement park?

A. They are not allowed in the park.

Q. And what instructions and what authority has been given by Rekab, Inc., and Kebar, Inc., by you as President of each of these corporations, to Lieutenant Collins with respect to this park policy?

A. To give them all due respect and if they do not do what he asks them to do within a time that he thinks it should have been done, that he should arrest them.

[fol. 74] Mr. Duncan: Your Honor, I move to strike that answer on the ground that Mr. Collins testified he was employed by National Detective Agency.

Judge Pugh: Did you give Lieutenant Collins any instructions yourself?

A. He used to ask for instructions almost every day on something or other in the park.

Judge Pugh: Proceed.

Mr. Duncan: I renew my objection.

Judge Pugh: Over-ruled.

By Mr. McAuliffe (continued):

Q. Now then, Mr. Baker, what agency does the park employ, specifically what agency does Rekab, Inc., and Kebar, Inc., employ for purposes of maintaining law and order on the park property?

A. This year it was the National Detective Agency.

Q. And who, in the National Detective Agency, was designated as the director or the man in charge of the police force on the park grounds?

A. Lieutenant Collins.

Q. And as such did you have occasion to give Lieutenant Collins any instructions with respect to a park policy [fol. 75] against admitting negroes?

A. Yes.

Q. And what specific instructions did you give him with respect to authority to order people off of the park premises?

A. Well, he was supposed to stop them at the gate and tell them that they are not allowed; and if they come in, within a certain time, five or ten minutes—whatever he thinks, why he would escort them out.

Q. In the event they didn't see fit to leave at his warning, did you authorize Lieutenant Collins to have these people arrested?

A. Yes.

Q. On a charge of trespass?

A. On a charge of trespassing.

[fol. 80] Judge Pugh: Ask another question.

Cross examination of the witness (resumed).

By Mr. Duncan:

Q. Has your corporation, either Rekar, Inc., or Kebar, Inc., entered into any contractual relationship with the National Detective Agency for the purpose of providing service at the park?

A. We have an agreement.

Q. A written agreement?

A. Yes.

Q. Do you have a copy of that agreement?

A. I do not have one with me.

Q. Did you pay the salary of Lieutenant Collins, you or the corporation?

A. We pay the National Detective Agency by check, and they take care of their men.

Q. Do you pay them a lump sum per month, or per year?

A. A lump sum weekly.

Q. For all the services they render to you?

A. That is right.

Q. It is not broken down?

A. It is down in their office.

Q. In other words, you pay them a flat weekly rate?

A. We send the time schedules to their office and [fol. 81] doublecheck with them and then we pay them whatever we owe them for the week.

Q. How is that determined? Do they bill you?

A. Between the auditor in their office and the auditor in our office—that we have the right amount; that the time schedules are correct.

Q. Does the contract to which you have testified relate the duties which the guards in the park have to perform?

A. Yes.

Q. Have you ever had any conversation with Lieutenant Collins, relating to the racial policies of the park?

A. Yes.

Q. When did you first talk to him about your policies?

A. He knew the policy right from the beginning.

Q. I asked you when did you first have occasion to talk to him about that.

A. When he first took over.

Q. When was that?

A. April 2nd, I think, 1960.

Q. Now you talked with him personally?

A. Well if I didn't, my brother did. I can't go back that far. If I didn't, my brother did.

Q. Did you talk with him, personally?

A. I have many times.

Q. I mean, in April 1960, when Mr. Collins took over, did you talk with him, personally, relating to the racial policies of the park?

A. I don't know if it was that day or not, but I did [fol. 82] talk to him.

Q. Have you ever talked with him about the racial policy of the park?

A. Yes.

Q. When, according to your best recollection, did you first talk with him about that?

A. I don't know. I would say it would be April 2nd, but I am not sure. April 2nd, 1960.

Q. Is it your testimony that you talked with him, or your brother talked with him on April 2nd?

A. We both talked to him. If one is there, he talks to him, and—

Q. I want to know what conversation you, Abram Baker, had with Lieutenant Collins.

A. It is all according to what he asked me.

Q. When did you first have occasion to talk with him about the racial policy of the park?

A. We had him sit down, and talked it over the first day.

Q. Were you present at that conversation?

A. That I can't tell you.

Q. You don't know whether you were there or not?

A. I don't know if I was there April 2nd, or whether my brother talked to him.

Q. Will you pick a day, please, when you were there?

A. I don't know.

Q. You have no recollection of talking to him as to the racial policy of the park?

[fol. 83] A. I did; many times.

Q. Well do you think you talked to him in the month of April?

A. I would say so.

Q. Do you mean by that, that you did talk to him during the month of April about that subject?

A. I think so.

Q. Are you in doubt as to whether you did talk to him in the month of April?

A. Well if something didn't come up, why I didn't have to talk to him about it.

Mr. Duncan: Your Honor, I am going to ask the Court's assistance in trying to fix a date.

Judge Pugh: Cross-examine him.

By Mr. Duncan (continued):

Q. Did you have any conversation with Lieutenant Collins, in the month of May, 1960, regarding the racial policies of the park?

A. I may have.

Q. And you may not have?

A. If nothing turned up, I may not have had to talk to him about it.

Q. Did you have any conversation with him in the month of June, 1960, about the racial policies of the park?

A. Yes.

Q. When was that?

[fol. 84] A. June 30th.

Q. And where did that conversation take place?

A. In my brother's office.

Q. Were you present?

A. Yes.

Q. You, yourself, were present?

A. Yes.

Q. Would you tell the Court what you told Lieutenant Collins relating to the racial policies of the Glen Echo Park?

A. We didn't allow negroes and in his discretion, if anything happened, in any way, he was supposed to arrest them, if they went on our property.

Q. Did you specify to him what he was supposed to arrest them for?

A. For trespassing.

Q. You used that word to him?

A. Yes; that is right.

Q. And you used the word "discretion"—what did you mean by that?

A. To give them a chance to walk off; if they wanted to.

Q. Did you instruct Lieutenant Collins to arrest all negroes who came on the property, if they did not leave?

A. Yes.

Q. That was your instructions?

A. Yes.

Q. And did you instruct him to arrest them because they were negroes?

[fol. 85] A. Yes.

Q. Did you instruct him to arrest white persons who came on the park property with colored persons?

A. If they were doing something wrong, they are supposed to be arrested.

Q. In other words, your instruction as to negroes was to arrest them if they came into the park; and refused to leave, because they were negroes; and your instruction was to arrest white persons if they were doing something wrong?

A. That is right.

Q. What did you mean when you told Lieutenant Collins to arrest white persons who came into the park property, if they were doing something wrong?

Mr. McAuliffe: Objection.

Judge Pugh: Read the question back. (Last question was read by the reporter) Objection over-ruled.

A. Well if they were in the picket line and then ran out into the park and we told them to leave and they refused, why shouldn't you arrest them?

Q. So, doing something wrong includes associating with negroes for the purpose of going into the park; is that correct?

A. I don't understand.

Q. You testified that your instructions to Lieutenant Collins, in respect to white people, was to arrest them if they were doing something wrong.

A. That is correct.

[fol. 86] Q. I am trying to find out what you meant by "something wrong", and I asked you whether or not associating with negroes who were in the park would be what you meant.

Mr. McAuliffe: Objection; we are not trying a racial case.

Judge Pugh: Objection over-ruled; answer the question.

A. I still say, if they were in the picket line—I gave him orders if they came out of the picket line on to my private property, I wanted them arrested.

Q. This is as to white persons?

A. That is right.

Q. As to negroes, did you give Lieutenant Collins any further instructions, other than to arrest them if they came on to the premises?

A. What is that?

Q. As to negroes, other than instructing Lieutenant Collins to arrest them if they came into the park, did you tell Lieutenant Collins anything else as to what his duties were, or should be, with respect to negroes who came on park property?

A. He knows what he is supposed to do.

Q. I am sure of that, but I am trying to find out what you told him to do.

A. I told him to give them sufficient time to walk off, or otherwise they would be arrested.

Q. Did you instruct him as to how he should determine who was a negro and who was not?

[fol. 87] A. No.

Q. You left that up to him? That was within his discretion; is that correct?

A. Yes.

Q. Did you make any exceptions to those instructions you gave him?

A. No.

Q. So you instructed him, for instance, to arrest a negro maid, if she came on with white children?

A. They usually call up—a white person would ask if it would be all right for them to bring the children in, if they didn't do anything in the park, and we would say "It is all right."

Q. You would allow it?

A. Yes.

Q. Have negroes ever attended Glen Echo Park prior to June 30, 1960, as patrons?

Mr. McAuliffe: Objection.

Judge Pugh: Objection over-ruled. You may answer it.

A. Not to my knowledge.

(Lunch recess.)

1:45 p.m.

Examination of the witness (resumed).**By Mr. Duncan :**

Q. Before we adjourned for lunch, I was asking you about instructions you gave Lieutenant Collins with reference to excluding negroes from the park. Did you in- [fol. 88] struct Lieutenant Collins to exclude all negroes who appeared there?

A. Yes, sir.

Q. Without regard to the way they conduct themselves?

A. Yes.

Q. Without regard to how they were dressed?

A. That is right.

Q. Mr. Baker, we have established that you had a conference with Lieutenant Collins, on or about the 30th of June, 1960; I believe it was also your testimony that he came into your employ on or about the 2nd of April, 1960. I would like to ask whether, between the time he began working at Glen Echo and the time this occurrence happened, did you, yourself, have any conversation with Lieutenant Collins, relating to his duties if negroes came to the park as patrons. Between April 2, 1960 and June 30, 1960—between those two dates, did you have any conversation with Lieutenant Collins in which you gave him instructions as to what he should do in the event negroes presented themselves at the park as patrons?

A. He would come to me if anything happened, first.

Q. Let's go back to the time when he first came into your employ. Did you meet with him to instruct him generally about your policies?

A. That is right.

Q. Did you, yourself, meet with him?

A. Yes.

Q. Can you give the approximate time?

A. The park opened April 2nd; I don't know.

Q. Would you say that sometime around April 2nd you [fol. 89] had a conversation with Lieutenant Collins?

A. I would say so.

Q. Now in that conversation did you give him instructions relating to the treatment to be accorded negroes?

A. To everybody.

Q. Did you give him instructions about the treatment to be accorded to negroes specifically?

A. Not that I know of.

Q. When did you first give him instructions after April 2nd, 1960, relating to the treatment to be accorded to negroes?

A. I didn't have to. That has been the policy of the park ever since it started.

Q. Is it your testimony that you did not, prior to June 30th, give him that instruction?

A. He got his instructions at the beginning of the season. He knew what to do.

Q. From whom did he get his instructions?

A. From me and the Manager.

Q. All right. What instructions did you give him?

Judge Pugh: Haven't you been all over that?

Mr. Duncan: I took it through, month by month, and the first time he stated he gave any instructions was on the 30th of June and that is the date of the arrest.

Judge Pugh: He has now said that policy has been in effect since the park started. He said just before the arrest in this case Lieutenant Collins reported to him that there were negroes in the park and he told him to exclude them. [fol. 90] Tell them to get off the property.

By Mr. Duncan (continued):

Q. You testified you told Lieutenant Collins to arrest these negroes, if they didn't leave, for trespass. Is that correct?

A. Within a reasonable time.

Q. And you said you used the word "trespass"; is that correct?

A. Yes.

Q. Did you give him any instructions which section of the statute to make the arrest under?

A. I didn't know of any section.

Q. Did you draw any distinction in your instruction between trespassing and wanton trespassing?

A. I really don't know the difference.

Q. Do you recall ever having used the term "wanton trespass" to Lieutenant Collins?

A. No, I do not.

Q. You were relying on his knowledge, as a police officer, as to the mechanics of the matter?

A. That is right.

Q. As President of these two corporations, are you familiar with their advertising policies?

A. We have an agency.

Q. What agency is that?

A. The advertising agency advertising the park. Do I have to answer that?

Judge Pugh: You just use the newspapers, don't you?
[fol. 91] The Witness: We have an advertising agency.

Mr. Duncan: One of the specific defenses in the statute, in Section 5770 says "that nothing in this section shall be construed to include within its provisions the entry or crossing over such land unless such entry or crossing is done under a bona fide right." We are trying to establish that the park advertised publicly, and did not exclude negroes in its advertising.

Judge Pugh: Objection over-ruled.

Cross examination (continued).

By Mr. Duncan:

Q. What is the name of that advertising agency?

A. Kal Ehrlich.

Q. Have you had any conferences with any representatives of that agency, relating to the advertising program which they would engage in on your behalf?

Mr. McAuliffe: I object to this line of questioning.

Judge Pugh: I think you are going too far afield, Mr. Duncan.

Mr. Duncan: One defense to the statute is that I think if I can show that the park invited the public, generally,

to come use these facilities, without any mention being made of race—

Judge Pugh: The advertising didn't say anything about negroes?

Mr. Duncan: No.

[fol. 92] Mr. McAuliffe: Of course the State attempted to introduce evidence to show that these five defendants were on a picket line and had full knowledge of the park policy, so the advertising would be completely irrelevant. The evidence is that they came right off the picket line and went into the park, so the evidence is clear that they were not misled, but that they had full knowledge of the park policy when they went in, and on that basis we object to this as being irrelevant.

Mr. Duncan: Mr. McAuliffe's recollection is different from mine.

Judge Pugh: I don't know what your defense is. Your plea up to now is "not guilty." You didn't make an opening statement. I don't know exactly what your defense is.

Mr. Duncan: They were there under a claim of right, and one of the defenses is that they were invited to come there and I am trying to establish the fact that the park does advertising, without mentioning race. I proffer, through this witness and through witnesses I will recall, to show that.

Judge Pugh: On that proffer the objection will be overruled.

Cross examination of the witness (continued).

By Mr. Duncan:

Q. Does Glen Echo, operating through its advertising agency, advertise in the Washington, D. C. area?

A. I would say so.

Q. Does it advertise in the Press?

[fol. 93] A. What do you mean "The Press?"

Q. By newspapers?

A. Yes.

Q. By radio?

A. Yes.

Q. And by television?

A. Yes.

Q. On the back of Capital Transit Busses?

A. No.

Q. It does not?

A. No, sir.

Q. Do any of the advertisements which the park makes refer to racial policies of the park?

A. I don't get that.

Q. Do any of the advertisements which you have referred to, refer to the racial policies of the park?

A. I don't think so.

Q. Do any of them state that negroes are not welcome?

A. They didn't say they were.

Q. Are they addressed to the public generally?

A. I would say so.

Q. Do you happen to know what your advertising budget is for the year?

Mr. McAuliffe: Objection.

Judge Pugh: What is the question? (Last question read by the reporter). Objection sustained. Who determines the policy of the Glen Echo Park, of which you are President. [fol. 94] Is that also determined by some act of the corporation?

A. Its just been that way for years and years; that's all.

Judge Pugh: You mean it is just handed down by custom?

A. Yes.

Judge Pugh: Do you admit Chinese?

A. Yes.

Judge Pugh: Filipinos?

A. Yes.

Judge Pugh: And somebody from India; do you admit them?

A. Yes.

Judge Pugh: And the only ones you exclude are the negroes?

A. Yes.

Judge Pugh: There is no official act of the corporation that bears that out; it is just handed down from year to year?

A. That is right.

Cross examination (resumed).

By Mr. Duncan:

Q. Who in the corporate hierarchy determines that policy?

A. Who what?

Q. Who in the corporation determines that that policy shall continue in effect?

A. We all do.

Q. Are you referring to officers or stockholders?

A. Whoever is in charge at that time. They know that that is the way it is supposed to be.

Q. Is this a closely held corporation?

A. Yes, sir.

[fol. 95] Q. How many stockholders are there?

A. Three.

Q. How many different persons serve as officers?

A. Three.

Q. Are they the same three who are the stockholders?

A. Yes.

Q. And you say that this has always been the policy of the park?

A. That is right.

Judge Pugh: Has your corporation filed any civil suits, or asked the Court for any injunction to prohibit colored people from coming on your property?

A. No, sir.

Q. It never has done that?

A. No, your Honor.

By Mr. Duncan (continued):

Q. Mr. Baker, at any time in the past five years has there ever been a meeting of the Board of Directors, at which the racial policies of the park were considered and discussed?

A. No, sir.

Q. Not in the past five years?

A. No, sir.

Q. On the night of June 30th, did Lieutenant Collins speak to you about these specific defendants?

A. I wasn't there.

Q. You were not where, sir?

A. I wasn't at the park on the night of June 30th.

[fol. 96] Q. Did you have a discussion with Lieutenant Collins on the 30th of June, 1960, about the racial policy of the park?

A. I don't remember.

Mr. Duncan: I have no further questions.

Examination by the Court.

By Judge Pugh:

Q. I think you testified, on direct, or cross examination, that your corporation had deputy sheriffs, or somebody similar to Lieutenant Collins' position, at the gate of the Glen Echo Amusement Park; is that correct?

A. Yes.

Q. On this particular night did you have such a person at the entrance to the park, so far as you know?

A. They were supposed to be there.

Q. Is that officer directed to tell the negroes not to come in?

A. I left the General Manager there to oversee everything.

Q. Is he here in Court today?

A. Yes.

Redirect examination.

By Mr. McAuliffe:

Q. Did you have a conversation with Lieutenant Collins on the 30th day of June, at any time or any place?

A. When the newspaper people came out and said that there was going to be something going on that night, I told [fol. 97] him to continue the policy.

Q. Where were you when you spoke to him at that time?

A. That was in the daytime, in my office.

Q. And was that at the Glen Echo Amusement Park?

A. Yes; it was.

Q. And that is when you had this conversation that you related to the Court, in which you instructed Lieutenant Collins as to how this situation was to be handled?

A. I don't get that.

Q. Is that when you had this conversation, which you previously related, in which you instructed Lieutenant Collins how the situation with respect to negroes was to be handled?

A. That is right.

Q. And that was prior to the time the five defendants in this case came on to the property and were arrested by Lieutenant Collins?

A. That is right.

Q. Do you know how long the Glen Echo Amusement Park has been in existence, and how long it has maintained a policy of segregation?

A. Fifty-one years.

Q. Did you instruct Lieutenant Collins that he was to arrest negroes because they were negroes, or because they were trespassing?

A. Because they were trespassing.

Mr. McAuliffe: That is all.

[fol. 98] Recross examination.

By Mr. Duncan:

Q. Did you instruct Lieutenant Collins to arrest any other persons who trespassed, other than negroes?

A. I went over that once before with you. I told him if they came out of that picket line to come on to the property, to give them due notice and to arrest them if they didn't leave; white or colored.

Q. Did you, on the 30th of June, 1960, see Lieutenant Collins at all, anywhere?

A. I saw him in the afternoon.

Q. What time in the afternoon; approximately?

A. Three thirty or four o'clock.

Q. Where did you see him?

A. When he came into the office and told me about the reporters.

Q. What office did he come into?

A. My office.

Q. Located where?

A. At the entrance to the park.

Q. On park property?

A. Yes.

Q. Did you have a conversation with him at that time?

A. Yes.

Q. Will you tell the Court, please, what conversation you had with Lieutenant Collins at that time?

Judge Pugh: Haven't you testified to that before?

[fol. 99] A. As far as I know.

Mr. Duncan: In response to the question I put, he said he didn't talk to Lieutenant Collins on the 30th of June.

Judge Pugh: All right. Go ahead, answer it.

A. When the reporters came that afternoon, when they heard about it, he came in and told me that there would be trouble that night, and we went over the same thing.

Q. Did you talk to him subsequently, at the time these defendants were arrested?

A. No.

Q. Do you know what time they were arrested?

A. No.

Q. So Lieutenant Collins did not consult you prior to the time they were arrested?

A. No. My General Manager took care of that.

Q. In your instructions to Lieutenant Collins to arrest negroes for trespassing, were they arrested for any other reason than that they were negroes?

A. You asked me before about anybody else and I told you yes.

Q. Well, were negroes to be arrested for trespassing—was that determination made on the basis of the fact that they were negroes? You wouldn't arrest anybody else that just walked into the park, would you, Mr. Baker?

A. If they were picketing and they came out of the line, white or colored, we are supposed to give them due notice and—

[fol. 100] Q. (interrupting the witness) Well, suppose a negro wasn't picketing, but just came out there and walked into the park, would your instructions apply to him?

A. Lieutenant Collins would get in touch with the gentleman, and tell him that he wasn't wanted in the park.

Q. And he wasn't wanted solely because he was a negro, isn't that correct?

A. So far as I know.

Q. You determine the policy of this corporation, don't you?

A. Yes.

Q. Well, is there any doubt in your mind that that is why you told him he wasn't wanted?

A. No.

Re-redirect examination.

By Mr. McAuliffe:

Q. Who are the other officers of this corporation?

A. My brother.

Q. What is his position?

A. Secretary and Treasurer.

Q. What is his name?

A. Sam Baker.

Q. Who is the other officer of the corporation?

A. My wife.

Q. And have you and your brother, and your wife, conferred, and are you in agreement with respect to the policy to be followed at Glen Echo Park?

A. We sure are.

[fol. 101] Q. And who is your General Manager at the Glen Echo Park?

A. Leonard Woronoff.

Q. And is he instructed to carry out all the policies by you and your brother and your wife, with respect to the operation of the park, as you see fit?

A. He is.

Q. You take the position, Mr. Baker, that as the owner of this private property, or as President of the corporation, you have the right to determine who shall come on to your property, and the right to arrest them if they do not leave?

A. Yes.

Mr. McAuliffe: I object to that.

Judge Pugh: Objection sustained.

FRANCIS J. COLLINS, recalled to the stand for further examination by counsel for the plaintiff, testified

Direct examination.

By Mr. McAuliffe:

Q. Directing your attention to State's Exhibit #2, will you take this pen which I hand you and mark on there with an "X", and circle that X; in the approximate area where the five defendants were at the time that you talked with them and had occasion subsequently to arrest them, some five minutes later. Make a large "X" and a circle, so we can see it. (The witness complies).

[fol. 102] Mr. McAuliffe: You may cross-examine him.

Cross examination.

By Mr. Duncan:

Q. Have you ever seen this plat before, Mr. Collins?

A. Yes, sir.

Q. Where did you see it, Mr. Collins?

A. In the State's Attorney's office.

Q. When?

A. Thursday of last week.

Q. Was that the first time you had seen it?

A. Yes, sir.

Mr. Duncan: I have nothing ~~further~~.

LEONARD WORONOFF, a witness of lawful age, called for examination by counsel for the plaintiff, and having first been duly sworn, according to law, was examined and testified upon

Direct examination.

By Mr. McAuliffe:

Q. What is your name, and what is your address?

A. Leonard Woronoff, 1678 North 21st Street, Arlington, Virginia.

Q. What is your position, if any, with Rekab, Inc., and Kebar, Inc.?

A. General Manager of Glen Echo Amusement Park.

Q. And as General Manager what are your duties and [fol. 103] responsibilities?

A. My duties are to execute the policies as set forth by the officers of the corporation, the owners of the amusement park.

Q. What are those policies with respect to the admission of negroes to the park as patrons?

A. The policy has been and is to maintain the park on a segregated basis.

Q. What are your duties and responsibilities with respect to the special police who are on duty and hired by Rekab, Inc., and Kebar, Inc., at Glen Echo Amusement Park?

A. Well I issue instructions. The officers there, our security force, report to me, and I am responsible for their conduct.

Q. Directing your attention to the date of June 30th, prior to the arrest of the five defendants in this case, did you have occasion to discuss with Lieutenant Collins what action, if any, he should take with respect to the five defendants in this case?

A. Yes, sir.

Q. And when was that discussion held, Mr. Woronoff?

A. That was held when I was notified in the office that these defendants had, in fact, gone into the park and were at that time on the carousel.

Q. From whom did you receive such notification?

A. By Lieutenant Collins.

Q. As the result of gaining that information, what did you do, as the General Manager of Glen Echo Amusement [fol. 104] Park and what instructions did you give to Lieutenant Collins?

A. I instructed Lieutenant Collins to notify them that they were not welcome in the park, and we didn't want them there, and to ask them to leave, and if they refused to leave, within a reasonable length of time, then they were to be arrested for trespass.

Q. Are you familiar with Glen Echo Park?

A. Yes, sir.

Q. And on whose property is the carousel located in Glen Echo Park?

Mr. Duncan: I object to that.

Mr. McAuliffe: I will withdraw the question.

Q. Is the Glen Echo Park in Montgomery County, Maryland?

A. Yes, sir.

Mr. McAuliffe: Cross-examine him.

Cross examination.

By Mr. Duncan:

Q. Mr. Woronoff, you said, as General Manager of the park, you were responsible for the conduct of the National Detective Agency officers; is that right?

A. Yes; while they are in our employ at the park.

Q. Does the National Detective Agency make their employees available to you, and you direct them as you see fit?

A. That is correct.

[fol. 105] Q. How many of those officers are also Deputy Sheriffs of Montgomery County?

A. At the present time there are two.

Q. Who, in addition to Mr. Collins?

A. James E. Honniger.

Mr. Duncan: I have no further questions.

Mr. McAuliffe: If the Court please, the State rests.

MOTION TO QUASH THE WARRANTS OF ARREST, ETC.
AND STATEMENT THEREON

Mr. Duncan: May it please the Court, at this time I would like to move to quash the warrants of arrest, or to move for their dismissal, on a number of grounds which I would like to urge on the Court, and the first ground is constitutional grounds, namely, that the application of the Maryland trespass statute, Section 577, under the circumstances of this case, is unconstitutional and constitutes a denial of due process of law. *Marsh v. Alabama*, 326 U. S. 501. The State of Maryland may not assist the owners of the park here in carrying out a pattern of private racial discrimination.

The Supreme Court held in 1947 that although the covenants were valid as private agreements, the State could not enforce them, so we say here the discrimination which may exist at Glen Echo Park is a private matter between the park and the would be negro patrons, but that Glen

Echo cannot call upon the State of Maryland to enforce and carry out that policy.

[fol. 106] In this case I think it is quite clear that the action of the state is resorted to for the purpose of enforcing racial discrimination. They were excluded from the park, not because they were trespassers, but because they were negroes. We contend that these defendants are entitled to the equal protection of the law.

Judge Pugh: Are the property owners entitled to the equal protection of the law?

Mr. Duncan: Most assuredly. We contend further that the application of the statute in this way deprives the defendants of due process of law, because it results in their arrest. We advance a second constitutional argument, your Honor, and that is the interference by the State officers in this case deprives these defendants of statutory rights which are secured to them by the laws of the United States. I refer specifically to Sections 1981, 1982 and 1983 of Title 42 of the United States Code. As your Honor is aware, Section 1981 provides that every person within the jurisdiction of the United States shall have the same right, among other things, to make and enforce contracts, as is enjoyed by white persons, to purchase, acquire, hold and sell real property. It is declared to be a right which everyone shall enjoy. In Section 1983 it is made actionable for any person, acting under color of law, to deprive anyone in the exercise of his Section 1981 right. We submit that the action of Lieutenant Collins in this case, in his capacity as a State police officer, interfered with the equal enjoyment of the [fol. 107] right which these defendants had to attempt to enter into or make contracts with Glen Echo Amusement Park. *Williams v. Kansas City*, 104 Fed. (2nd). So on these two constitutional grounds we move that the warrants of arrest be quashed and dismissed on the ground that the statute as applied to these facts is unconstitutional.

And then we make the same motion on a number of State grounds. First, the Maryland statute, Section 577, begins as follows: "Any person or persons who shall enter upon or cross over the premises of private property, after having been duly notified by the owner, or his agent, not to do so, shall be deemed guilty of a misdemeanor." This

section has only been considered one time by the Court of Appeals of Maryland. *Krauss v. State*, 216 Md. 369. That was a case involving the entry into a garage, by employees of a finance company who were undertaking to repossess an automobile which was in the garage. The owner of the garage land had a lien on the automobile and had had discussions with the defendants prior to their entry, when he notified the defendants that he had a lien on the automobile. Notwithstanding this the defendants entered the land and removed the automobile. Upon conviction, and appeal to the Court of Appeals, that conviction was reversed on the ground that there was insufficiency of notice beforehand. Here we submit, and I think the testimony is uncontradicted on this point—Mr. Collins, himself, testified that his first communication was after they had come on to the land, and I submit to the Court that the statute cannot be violated. We base our motion to dismiss [fol. 108] on the ground that the statute, by its very terms applies only to wanton trespass. Reading again from the statute: "It being the intention of this section only to prohibit any wanton trespass upon the private property of others." We have been unable to find a case which defines the phrase "wanton trespass." The Court of Appeals of Maryland, however, has construed the meaning of the word "wanton" in other circumstances, and I cite on that *Dennis v. Baltimore Transit Co.*, 189 Md. 610, 617, and there, in discussing the meaning of the word "wanton" the Court of Appeals said "the word 'wanton' means characterized by extreme recklessness and utter disregard for the rights of others" and I submit that if this Court were to take that as a test of wanton trespass, then the evidence would have to show that these defendants entered Glen Echo Park with extreme recklessness and complete disregard of the rights of others.

Glen Echo advertised to the public generally. Its advertisements were not restricted as to race and any member of the public was entitled to respond to this advertisement and even if it should eventuate that negroes were excluded wantonness under the statute is further negated by the fact that all of these defendants had tickets, and so far it doesn't appear where they obtained the tickets; but there

is testimony that the tickets were transferable. They had tickets on the merry-go-round, and Mr. Collins testified that he saw the ticket in Mr. Griffin's hand. I submit that a person who enters an amusement park and comes into possession of a ticket, whether purchased by him or given to him by someone else, cannot be said to be guilty of wanton trespass.

[fol. 109] The third ground we base our motion on is that the statute, section 577, provides that—if I may read that section—"and further provided that nothing in this section shall be construed to include in its provisions the entry upon or crossing over any land when such entry or crossing is done under a bona fide claim of right or ownership of said land." Now, we submit that these defendants were on the land in the exercise of several bona fide rights. They were publicly invited on the land. Secondly, upon coming on the land they came into lawful possession of tickets, which, in the ordinary practice of the park, were clearly transferable. And it can be urged on their behalf that they have a constitutionally protected right to be on the land. If the federal statute gives to them the same right to make contracts as white persons, at least they were on the land in the exercise of this federal statutory right and they cannot be said to be engaged in a wanton trespass or that this was not a bona fide claim of right.

For all of these reasons we urge that the warrants in these cases as against all five defendants should be dismissed and I move for a finding of not guilty, based on the insufficiency of the evidence.

DENIAL OF MOTION FOR A DIRECTED VERDICT

Judge Pugh: The motion for a directed verdict is denied.

[fol. 110] KAY FREEMAN, a witness of lawful age, called for examination by counsel for the defendants, and having first been duly sworn, according to law, was examined and testified as follows, upon:

Direct examination.

By Mr. Duncan:

Q. For the record, state your name and address.

A. Kay Freeman; 732 Quebec Place, N. W.

Q. Miss Freeman, are you acquainted with the five defendants in this case?

A. Yes.

Q. Do you know them each by name?

A. Yes.

Q. How long have you known them?

A. I know some of them for different lengths of time. I guess the longest would be two years.

Q. Did you have occasion to be present at Glen Echo Amusement Park on the night of June 30th, 1960?

A. Yes.

Q. Were you in the company of these defendants, and other persons?

A. Yes.

Q. Did you enter the park?

A. Yes, I did.

Q. Did you enter it in company with these defendants?

A. Yes.

Q. Were you on the merry-go-round at the time they were arrested?

[fol. 111] A. Yes.

Q. Did you see them arrested?

A. Yes.

Q. Were you arrested?

A. No.

Q. Did you see each of these defendants arrested?

A. Yes.

Q. Prior to the time they were arrested, did they have tickets to ride on any of the rides?

A. We all had tickets.

Q. Where did you acquire these tickets?

A. They were given to us by friends.

Q. White friends?

A. Yes.

Q. And they had made the purchase?

A. That is right.

Q. Prior to the time that you entered the premises of the Glen Echo Amusement Park, did anyone tell you personally that you should not enter?

A. No one did.

Q. I mean anyone representing the park.

A. No one.

Q. Did Mr. Woronoff say anything to you?

A. No.

Q. Did Mr. Collins say anything to you?

A. No.

Q. Were there any signs posted anywhere around there?

A. I didn't see them.

[fol. 112] Q. The conduct of these defendants at all times was proper, wasn't it?

Mr. McAuliffe: Objection.

Mr. Duncan: I will rephrase it.

Q. What was the conduct of these defendants, during the time they were in the park?

A. Their conduct was orderly.

Q. Have you ever seen any advertisements relating to Glen Echo Amusement Park?

A. Yes every day, on television, on street cars and on radio.

Q. You say you went to Glen Echo in a group, with these defendants?

A. That is right.

Mr. Duncan: I have no further questions.

Examination by the Court.

By Judge Pugh:

Q. Were you told to get out of the park?

A. Yes, I was asked to leave.

Q. They told you to leave?

A. That is right.

Q. And you left?

A. No; I didn't leave.

Q. Were you on the merry-go-round?

A. Yes; I was.

[fol. 113] Q. And Lieutenant Collins asked you to leave?

A. Yes; he asked me to leave.

Q. Did you go along with the other five when they were taken to the office?

A. No; they did not ask me.

Q. You stayed on the merry-go-round?

A. Yes.

Q. And you stayed on there and rode?

A. I did not ride. They did not start the merry-go-round up until after I left.

Q. And then you left the park?

A. Yes.

Cross examination.

By Mr. McAuliffe:

Q. Miss Freeman, this advertisement that you read, is that what brought you out to Glen Echo Park on June 30th?

A. I wanted to use the facilities and I thought this would be a good way of doing it.

Q. You thought you would be able to use the facilities of Glen Echo Park?

A. I thought I might.

Q. Were you led out there by those advertisements?

A. It had been rumored.

Q. What had been rumored?

[fol. 114] A. The segregation policy.

Q. So you knew about the segregation policy?

A. I didn't know. I was told about it.

Q. Did you go out with these five defendants?

A. Yes.

Q. Did you go out with any others?

A. Yes.

Q. How many?

A. Thirty-five or forty.

Q. And you all expected to use the facilities there at Glen Echo Park, in accordance with those advertisements?

A. I expected to use them.

Q. Did you have any signs with you when you went out there?

A. Yes.

Q. What did these signs say?

A. They protested the segregation policy that we thought might exist out there.

Q. They protested with respect to a segregation policy that you thought might exist in the park?

A. That is right.

Q. You weren't sure it existed, but you were taking signs along, just in case it did exist; is that correct?

A. That is right.

Q. How many signs did you have?

A. I don't know.

Q. Did these five defendants have signs?

[fol. 115] A. I don't know. I think we all had signs, at one time or another.

Q. You mean these five defendants then, don't you?

A. I cannot speak for them.

Q. They knew you had signs; didn't they?

A. Yes.

Q. You all came out there, in a group, and you had these signs which protested against the segregation policy of Glen Echo Amusement Park; isn't that right, Miss Freeman?

A. They protested the policy that we thought existed. It was not a fact until we were arrested.

Q. When you got out there to Glen Echo, wasn't Mr. Henry with you?

A. He was in the group.

Q. Do you know Mr. Laurence Henry?

A. Yes.

Q. Didn't he confer with Lieutenant Collins shortly after you arrived on the scene?

A. I don't know. I wasn't near him then.

Q. When you arrived at the Glen Echo Amusement Park, what did you do; put your signs to one side and start to walk in?

A. Some of us carried signs; others didn't.

Q. What did you do?

A. I walked around in a circle.

[fol. 116] Q. Walked around in a circle?

A. That's right.

Q. Since you came there, expecting to go into Glen Echo Amusement Park, and were lead on by these advertisements, why didn't you just walk right into the park?

A. Because everybody else didn't just walk right into the park immediately.

Q. Do you mean these five defendants?

A. And other persons.

Q. What did these five defendants do and other persons do?

A. We had a picket line.

Q. Didn't you try to enter Glen Echo Park before you set up the picket lines?

A. No.

Q. Then you knew the policy of Glen Echo Park was segregated, didn't you?

A. No; we didn't know that until we were arrested.

Q. You mean you set up a picket line before you knew the park was segregated?

A. That is right.

Q. Why did you do that if you didn't know the park was segregated?

A. Because we thought it was segregated.

Q. But you didn't bother to find out before you set up [fol. 117] the picket line?

A. No, we did not.

Q. Wasn't Mr. Henry your so-called Leader?

Mr. Duncan: I object to that, your Honor.

Judge Pugh: The objection is sustained.

Examination by the Court.

By Judge Pugh:

Q. How many car loads of you came out there that night?

A. Five or six.

Q. Did you have all these signs with you?

A. Yes, we did.

Q. Did you go out there to try to make them change their policy?

A. I went to try to use the facilities of the park.

Q. Were you paid anything to go out there?

A. I was not.

Cross examination (continued).

By Mr. McAuliffe:

Q. Do you know of anyone who did receive pay for going out there to Glen Echo Park?

A. No, I do not.

Q. Who contacted you, Miss Freeman, to ask you to go out to Glen Echo Park?

[fol. 118] Mr. Duncan: Objection.

Judge Pugh: The objection is sustained.

Q. Now you say after you got on the park property, tickets were given you by some white friends; is that right?

A. That is right.

Q. Since you weren't sure of the policy of the park, why didn't you try to buy a ticket yourself?

A. It wasn't necessary for me to try to buy a ticket, if somebody had already bought them for us.

Q. And they paid for them?

A. That is right.

Q. Did you reimburse them?

A. I didn't personally reimburse anybody.

Q. Who reimbursed them, Miss Freeman, for your ride?

A. I didn't pay for a ride.

Q. You paid for a ticket, didn't you?

A. I did not personally pay for a ticket.

Q. Who paid for your ticket?

A. I think Paul Dietrich paid for it.

Q. He just gratuitously paid for your ticket?

A. That is right.

Q. And you didn't go up to the ticket booth and try to [fol. 119] purchase any tickets yourself?

A. No, I did not.

Q. And you didn't know whether they would sell you a ticket or not. You just decided it would be better to have Paul Dietrich to get you a ticket; is that right?

A. He offered his services and I didn't see why I should have to pay for a ticket if somebody is going to buy it for me.

Q. And Paul Dietrich is a white person; is that right?

A. Yes; he is.

Q. Now, you were on the carousel, or the merry-go-round, were you not?

A. Yes.

Q. Were you riding with these five defendants?

A. I was near them.

Q. Well; how near?

A. Perhaps two or three rides away.

Q. And when you saw these five defendants being arrested, and taken away, did you remain on the carousel?

A. Yes; I did.

Q. For how long did you remain there?

A. I remained for about thirty minutes.

Q. A half an hour?

A. That is right.

Q. Did the carousel start up during that time?

[fol. 120] A. No.

Q. Was there a crowd around there?

A. Yes.

Q. Did you hear any heckling?

A. Yes.

Q. And did you see any park policemen around there?

A. Yes.

Q. Did you talk with anyone?

A. Lieutenant Collins.

Q. And did he tell you about the policy of the park?

A. Yes.

Q. Did he warn you to leave the park property?

A. Yes.

Q. At the end of thirty minutes, did you leave the park property?

A. I left after the defendants had been arrested.

Q. So your best recollection is that it was approximately half an hour that you sat on that carousel, and the carousel did not start up?

A. No, it did not.

Q. Did it start up after you left?

A. I don't know.

Q. And you just walked out, with some other friends of yours; is that right?

A. That is right.

[fol. 121] Q. Since you weren't arrested—incidentally, you went back in the picket line, didn't you, Miss Freeman?

A. Yes, I did.

Q. Since you weren't arrested, you just walked out of the park and took a place in the picket line; is that right?

A. Yes.

Q. And no one told you you should not enter Glen Echo Park?

A. No.

Q. And you didn't bother to ask anybody before you set up that picket line?

A. I didn't set up the picket line.

Q. Before you took part in it. Before you started walking in this circle.

A. Yes.

Q. Who told you were to walk in this circle?

A. Well, we couldn't—

Q. (interrupting the witness) Wait a minute. How did you know where to walk?

A. Picket lines are usually set up—

Q. (interrupting the witness) I want to know how you knew where to walk.

A. I knew where the entrance to the park was.

Q. The entrance to the park was a short distance away from where you were walking; wasn't it?

[fol. 122] A. Yes.

Q. I want to know how you knew where to walk in this circle?

A. What do you mean?

Q. Didn't somebody tell you to walk there?

A. It was a spontaneous act.

Q. A spontaneous perfect circle?

A. It was not a perfect circle.

Q. And you looked on no one as your leader out there?

A. We were acting, for the most part, as individuals.

Q. It is that little least part that we are interested in. In that little part, who told you what to do? You say "for the most part you acted as individuals" indicating that there was a slight part that you didn't and in that slight part, who told you what to do?

A. No specific individual.

Q. You had no established leader?

A. No.

Q. And you didn't consider Mr. Laurence Henry to be your leader?

A. No.

Q. Nor anyone else there to be your leader?

A. There were those who, perhaps—I can't say that we had one specific leader, I can't say that.

Q. You had several persons who were in a capacity of [fol. 123] leadership; is that what you started to say?

A. Well, certain people said certain things, and if we agreed we went along with it, but there were no definite persons who did everything.

Q. How long did you march in this definite circle, with these five defendants, with these signs, protesting the park's segregation policy, before the five defendants and you entered Glen Echo Park?

A. I don't know.

Q. Would you give us your best estimate on that, please?

A. Maybe an hour or maybe longer.

Q. Your best estimate now would be that it was at least an hour?

A. About an hour.

Q. Do you now recognize each of the five defendants seated at this counsel table as being in that line, which carried signs protesting against the park's segregation

policy, which line protested for an hour before these defendants entered into the park?

Mr. Duncan: I object to that. I am not sure what its relevancy is.

Judge Pugh: Well, you put her on the stand. It is proper cross-examination. Objection over-ruled.

Q. Do you recognize each of these five defendants, seated [fol. 124] at the counsel table, as being in that picket line, that circle of pickets which you have described as being there for about an hour, carrying placards protesting the segregation policy of Glen Echo Park? Do you recognize these five defendants as being in that line and having been there for approximately an hour prior to the time that you and they entered the park?

A. I think that most of them were. I am not positive. It was a rather large line. I cannot be specific and say that each and every one was in the line.

Q. To the best of your knowledge and recollection, they were all there; is that correct?

A. Perhaps.

Redirect examination.

By Mr. Duncan:

Q. Miss Freeman, to your knowledge, have any of your friends, or any persons known by you, ever used the park prior to this arrest?

Mr. McAuliffe: Objection.

Judge Pugh: Objection over-ruled.

A. No.

Q. You said that there was some heckling. Who was [fol. 125] heckling whom?

A. Well the defendants and other persons who were on the merry-go-round were being heckled by the patrons of Glen Echo, and also by some of the people who were working there.

Examination by the Court.

By Judge Pugh:

Q. Was the heckling a loud noise?

A. Yes.

Q. How many people were in it?

A. I don't know, but the merry-go-round was almost surrounded.

Q. In other words, it looked like anything might break out there; a fight?

A. It wasn't that kind of heckling.

Q. How many people would you say were surrounding the merry-go-round when this incident took place?

A. Perhaps forty or so.

Q. You people all knew, when you left Washington, that this park was segregated; didn't you?

A. We didn't know it for a fact.

Q. What did you carry the signs for?

A. We were under the impression that it was segregated.

Q. And you went out there to impress upon them that it [fol. 126] shouldn't be segregated? shouldn't be segregated?

A. I went to see if I could get in.

Q. What did you get together with a crowd for? Why didn't you go by yourself?

A. I would never go to any amusement park alone.

Q. Why didn't you go with one or two people, instead of forty? What was the idea of going out there in large numbers?

A. There was a possibility that it was segregated.

Q. Well you all anticipated that there would be some trouble; didn't you?

A. Yes.

Q. How many men were in the party?

A. It was pretty well mixed.

Q. Well all these were grown men, weren't they?

A. There weren't so many grown men.

Q. You went out there looking for trouble; didn't you?

A. Not trouble; no.

Q. You went out there to try to force them to allow you to go into the park; didn't you?

A. Not to force them to do anything.

Q. Why didn't you stay out of the park, instead of going in there?

A. I wanted to know exactly what would happen.

By Mr. McAuliffe:

Q. You found out what would happen; didn't you?
[fol. 127] A. Yes.

Examination (continued).

By Mr. Duncan:

Q. You weren't arrested, were you?

A. No.

Q. You were in the park, weren't you?

A. Yes.

Q. How old are you?

A. Nineteen.

Q. Do you know how old Miss Greene is?

A. I think Miss Greene is eighteen.

Q. Do you know how old Mr. Saunders is?

A. Twenty-two.

Q. How old is Mr. Washington?

A. I don't know.

Q. How old is Mr. Proctor?

A. I think he is either nineteen or twenty.

Q. Are you a student at any University of learning in this city?

A. Yes, I go to Howard University.

Q. The Court asked you if you anticipated trouble when you went to the park.

A. No, not trouble.

Q. Did you intend to cause any trouble?

A. No.

Q. Did you intend to be disorderly?

[fol. 128] A. No.

Q. Did you intend to force your way in anywhere?

A. No.

Q. Had you discussed what you would do if there were trouble?

A. We didn't expect any real trouble, as far as physical violence is concerned.

Q. Would you say that most of the people that were in the group that accompanied you were the same age as yourself and these young people here?

A. Yes.

Q. Now have you, or anyone with whom you were associated, made any efforts to contact the ownership and management of the park for the purpose of gaining admission, prior to the 30th of June?

A. I have not myself.

Mr. Duncan: We have no further evidence to offer, your Honor, and I would like to renew my motions.

Judge Pugh: We will take a short recess.

(Recess.)

Mr. McAuliffe: Your Honor, for purposes of the record, may we have it shown on the record that State's [fol. 129] Exhibit 3 is the deed, which would be Liber 2072 folio 448, and further for purposes of the record, that the corporation record of Montgomery County, Liber 36 CKW folio 216, the Articles of Incorporation of Rekab, Inc., would be identified as State's Exhibit 4A and that the Montgomery County official corporate record, Liber 36 CKW folio 208, the Articles of Incorporation of Kebar, Inc. would be identified as State's Exhibit 4B. All of them have been admitted in evidence.

Judge Pugh: You just want to change the numbers?

Mr. McAuliffe: Yes.

Judge Pugh: Any objection?

Mr. Duncan: No, your Honor.

Judge Pugh: Change the numbers Miss Reporter. (Exhibit numbers were changed in accordance with Mr. McAuliffe's request.)

Mr. Duncan: I renew my motion for a directed verdict, and to quash the warrants.

Judge Pugh: The motion is over-ruled.

[fol. 130]

ORAL ARGUMENT BY MR. McAULIFFE

ORAL ARGUMENT BY MR. DUNCAN

REBUTTAL ARGUMENT BY MR. McAULIFFE

JUDGE PUGH'S ORAL OPINION.

It is very unfortunate that a case of this nature comes before the criminal court of our State and County. The nature of the case, basically, is very simple. The charge is simple trespass. Simple trespass is defined under Section 577 of Article 27 of the Annotated Laws of Maryland, which states that "any person or persons who shall enter upon or cross over the land, premises; or private property of any person or persons in this State, after having been duly notified by the owner or his agent not to do so shall be deemed guilty of a misdemeanor." Trespass has been defined as an unlawful act, committed without violence, actual or implied, causing injury to the person, property or relative rights of another. This statute also has a provision in it which says that it is the intention of the Legislature as follows: "It is the intention of this section only to prohibit any wanton trespass upon the private land of others." Wanton has been defined in our legal dictionaries [fol. 131] as reckless, heedless, malicious; characterized by extreme recklessness, foolhardiness and reckless disregard for the rights or safety of others, or of other consequences.

There have been many trespass cases in Maryland. As a matter of fact, there is one case now pending before the Court of Appeals of Maryland where the racial question has been injected into a disorderly conduct case, and that is the case of "State of Maryland versus Dale H. Drews", decided some few months ago. In that case, Judge Menchine filed a lengthy written opinion, in which he touched upon the rights of a negro to go on private property,

whether it is a semi-public or actually a public business, and in that case Judge Menchine said as follows:

"The rights of an owner of property arbitrarily to restrict its use to invitees of his selection is the established law of Maryland." This Court agrees with that opinion, and unless that case is reversed by the Court of Appeals of Maryland, at its session this Fall, that will continue to be the law of Maryland.

That statement by Judge Menchine is based upon authorities of this State, and not too far back, in the case of Greenfield versus the Maryland Jockey Club, 190 Md. 96, in which the Court of Appeals of this State said: "The rule that, except in cases of common carriers, inn-keepers and similar public callings, one may choose his customers, is not archaic."

If the Court of Appeals changes its opinion in the [fol. 132] 190 Maryland case, then we will have new law in this State on the question of the right of a negro to go on private property after he is told not to do so, or after being on it, he is told to get off.

In this County, as well as many, many counties in the United States, we have accepted the decision of integration that has been promulgated by the Supreme Court in the school cases, and without any provocations or disputes of any consequence. There is no reason for this Court to change that method of accepting integration, but when you are confronted with a question of whether or not that policy can be extended to private property, we are reaching into the fundamental principles of the foundation of this country.

The Constitution of the United States has many provisions, and one of its most important provisions is that of due process of law. Due process of law applies to the right of ownership of property—that you cannot take that property, or you cannot do anything to interfere with that man's use of his property, without due process of law.

Now, clearly, in this case, which is really a simple case; it is a simple case of a group of negroes, forty in all, getting together in the City of Washington, and coming into Maryland, with the express intent, by the testimony of

one of the defense witnesses, that they were going to make a private corporation change its policy of segregation. In other words, they were going to take the law in their own hands. Why they didn't file a civil suit and [fol. 133] test out the right of the Glen Echo Park Amusement Company to follow that policy is very difficult for this Court to understand, yet they chose to expose themselves to possible harm; to possible riots and to a breach of the peace. To be exposed to the possibility of a riot in a place of business, merely because these defendants want to impress upon that business their right to use it, regardless of the policy of the corporation, should not be tolerated by the Courts. Unless the law of this State is changed, by the Court of Appeals of Maryland, this Court will follow the law that has already been adopted by it, that a man's property is his castle, whether it be offered to the public generally, or only to those he desires to serve.

There have been times in the past, not too many years back, when an incident of this kind would have caused a great deal of trouble. It could have caused race riots, and could have caused bloodshed, but now the Supreme Court, in the school case in 1954, has decided that public schools must be integrated, and the people of this County have accepted that decision. They have not quibbled about it; they have gone along with it without incident. We are one of the leading counties in the United States in accepting that decision. If the Court of Appeals of Maryland decides that a negro has the same right to use private property as was decided in the school cases, as to State or Government property, or if the Supreme Court of the United States so decides, you will find that the places of [fol. 134] business in this County will accept that decision, in the same manner, and in the same way that public authorities and the people of the County did in the School Board decision, but there is nothing before this Court at this time except a simple case of criminal trespass. The evidence shows the defendants have trespassed upon this Corporation's property, not by being told not to come on it, but after being on the property they were told to get off.

Now it would be a ridiculous thing for this Court to say that when an individual comes on private property,

and after being on it, either sitting on it or standing on it, and the owner comes up and says, "Get off my property", and then the party says "You didn't tell me to get off the property before I came on it, and, therefore, you cannot tell me to get off now" he is not guilty of trespass because he was not told to stay off of the property. It is a wanton trespass when he refuses to get off of the property, after being told to get off.

One of the definitions of wanton is "foolhardy" and this surely was a foolhardy expedition; there is no question about that. When forty people get together and come out there, as they did, serious trouble could start. It is a simple case of trespass. It is not a breach of the peace, [fol. 135] or a case of rioting, but it could very easily have been, and we can thank the Lord that nothing did take place of such a serious nature.

It is not up to the Court to tell the Glen Echo Amusement Company what policies they should follow. If they violate the law, and are found guilty, this Court will sentence them.

It is most unfortunate that this matter comes before the Court in a criminal proceeding. It should have been brought in an orderly fashion, like the School Board case was brought, to find out whether or not, civilly, the Glen Echo Park Amusement Company could follow a policy of segregation, and then you will get a decision based on the rights of the property owner, as well as the rights of these defendants. So, the Court is very sorry that this case has been brought here in our courts.

It is my opinion that the law of trespass has been violated, and the Court finds all five defendants guilty as charged.

[fol. 136] Reporter's Certificate to foregoing transcript (omitted in printing).

[fol. 137]

IN THE COURT OF APPEALS OF MARYLAND

No. 248

September Term, 1960

WILLIAM L. GRIFFIN, *et al.*

v.

STATE OF MARYLAND

Henderson

Hammond

Prescott

Horney

Marbury,

JJ.

OPINION BY HORNEY, J.—Filed June 8, 1961

[fol. 138] This is a consolidated appeal from ten judgments and sentences to pay fines of one hundred dollars each, entered by the Circuit Court for Montgomery County after separate trials, each involving five defendants, on warrants issued for wanton trespass upon private property in violation of Code (1957), Art. 27, §577.

The first group of defendants, William L. Griffin, Marvous Saunders, Michael Proctor, Cecil T. Washington, Jr., and Gwendolyn Greene (hereinafter called "the Griffin appellants" or "the Griffins") all of whom are Negroes, were arrested and charged with criminal trespass on June 30, 1960, on property owned by Rekah, Inc., and operated by Kebar, Inc., as the Glen Echo Amusement Park (Glen Echo or park). The second group of defendants, Cornelia A. Greene, Helene D. Wilson, Martin A. Schain, Ronyl J. Stewart and Janet A. Lewis (hereinafter called "the Greene appellants" or "the Greenes"), two of whom are Caucasians, were arrested on July 2, 1960, also in Glen Echo, and were also charged with criminal trespass.

The Griffins were a part of a group of thirty-five to forty young colored students who gathered at the entrance to Glen Echo to protest "the segregation policy that we thought might exist out there." The students were equipped with signs indicating their disapproval of the admission policy of the park operator; and a picket line was formed to [fol. 139] further implement the protest. After about an hour of picketing, the five Griffins left the larger group, entered the park and crossed over it to the carrousel. These appellants had tickets (previously purchased for them by a white person) which the park attendant refused to honor. At the time of this incident, Rekar and Kebar had a "protection" contract with the National Detective Agency (agency), one of whose employees, Lt. Francis J. Collins (park officer), who is also a special deputy sheriff for Montgomery County, told the Griffins that they were not welcome in the park and asked them to leave. They refused, and after an interval during which the park officer conferred with Leonard Woronoff (park manager), the appellants were advised by the park officer that they were under arrest. They were taken to an office on the park grounds and then to Bethesda, where the trespass warrants were sworn out. At the time the arrests were made, the park officer had on the uniform of the agency; and he testified that he arrested the appellants under the established policy of Kebar of not allowing Negroes in the park. There was no testimony to indicate that any of the Griffins were disorderly in any manner, and it seems to be conceded that the park officer gave them ample time to heed the warning to leave the park had they wanted to do so.

The Greene appellants entered the park three days after the first incident and crossed over it and into a restaurant [fol. 140] operated by the B & B Industrial Catering Service, Inc., under an agreement between Kebar and B & B. These appellants asked for service at the counter, were refused, and were advised by the park officer that they were not welcome and were ordered to leave. They refused to comply by turning their backs on him and he placed them under arrest for trespassing. Abram Baker (presi-

dent. of both Rekar and Kebar) testified that it was the policy of the park owner and operator to exclude Negroes and that the park officer had been instructed to ask Negro customers to leave, and that if they did not, the officer had orders to arrest them. There was no evidence to show that the operator of the restaurant had told the Greenes they were not welcome or to leave; nor was there any evidence that the park officer was an agent of the restaurant operator. And while a prior formal agreement¹ covering the 1957 and 1958 seasons had provided that the restaurant operator was subject to and should comply with the rules and regulations concerning the persons to be admitted to the park and that Kebar had reserved the right to enforce them, the letter confirming the agreement for the 1959 and 1960 seasons fixed the rentals for that period [fol. 141] and alluded to other matters, but made no reference whatsoever, either directly or indirectly, to the prior formal agreement—though there was testimony, admitted over objection, to the effect that the letter was intended as a renewal of the prior lease—and was silent as to a reservation by Kebar of the right to police the restaurant premises during the 1959 and 1960 seasons.

On this set of facts, both groups of appellants make the same contentions on this appeal: (i) that the requirements for conviction under Art. 27, §577, were not met; and (ii) that the arrest and conviction of the appellants constituted an exercise of the power of the State of Maryland in enforcing a policy of racial segregation in violation of the Fourteenth Amendment to the Constitution of the United States.

Trespass to private property is not a crime at common law unless it is accompanied by, or tends to create, a breach of the peace. See *Krauss v. State*, 216 Md. 369, 140 A. 2d 653 (1958), and the authorities therein cited. And it was not until the enactment of §21A of Art. 27 (as a

¹ The document was called an "agreement"; the operator of the restaurant was referred to therein as a "concessionaire" and was described in the agreement as a "licensee" and not a "lessee"; yet the agreement called for the payment of rent (payable bi-annually) as well as a portion of the gross receipts and a part of the county licensing fees and certain other items of expense.

part of the Code of 1888) by Chapter 66 of the Acts of 1900 that a "wilful trespass" (see *House Journal* for 1900, p. 322) upon private property was made a misdemeanor. That statute, which has remained unchanged in phraseology since it was originally enacted, is now §577 of Art. 27 (in the Code of 1957), entitled "wanton trespass upon private land," and reads in pertinent part:

[fol. 142] "Any person * * * who shall enter upon or cross over the land, premises or private property of any person * * * after having been duly notified by the owner or his agent not to do so shall be deemed guilty of a misdemeanor * * * ; provided [however] that nothing in this section shall be construed to include * * * the entry upon or crossing over any land when such entry or crossing is done under a bona fide claim of right or ownership * * * ; it being the intention of this section only to prohibit any wanton trespass upon the private land of others."

The Case Against The Griffin Appellants

(i)

The claim that the requirements for conviction were not met is threefold: (a) that due notice not to enter upon or cross over the land in question was not given to the appellants by the owner or its agent; (b) that the action of the appellants in doing what they did was not wanton within the meaning of the statute; and (c) that what the appellants did was done under a bona fide claim of right.

There was due notice so far as the Griffins were concerned. Since there was evidence that these appellants had gathered at the entrance of Glen Echo to protest the segregation policy they thought existed there, it would not be unreasonable to infer that they had received actual notice not to trespass on the park premises even though it had not been given by the operator of the park or its agent. But, even if we assume that the Griffins had not previously had the notice contemplated by the statute which was required to make their entry and crossing unlawful, the record is [fol. 143] clear that after they had seated themselves on the

carrousel, these appellants were not only told they were unwelcome, but were then and there clearly notified by the agent of the operator of the park to leave and deliberately chose to stay. That notice was *due* notice to these appellants to depart from the park premises forthwith, and their refusal to do so when requested constituted an unlawful trespass under the statute. Having been duly notified to leave, these appellants had no right to remain on the premises and their refusal to withdraw was a clear violation of the statute under the circumstances even though the original entry and crossing over the premises had not been unlawful. *State v. Fox*, 118 S. E. 2d 58 (N. C. 1961). Cf. *Commonwealth v. Richardson*, 48 N. E. 2d 678 (Mass. 1943). Words such as "enter upon" or "cross over" as used in §577, *supra*, have been held to be synonymous with the word "trespass." See *State v. Avent*, 118 S. E. 2d 47 (N. C. 1961).

The trespass was wanton within the meaning of the statute. Since the evidence supports a reasonable inference that the Griffins entered the park premises and crossed over it well knowing that they were violating the property rights of another, their conduct in so doing was clearly wanton. Although there are almost as many legal definitions of the word "wanton" as there are appellate courts, we think the Maryland definition, which is in line with the general definition of the word in other jurisdictions, is as good as any. [fol. 144] In *Dennis v. Baltimore Transit Co.*, 189 Md. 610, 56 A.2d 813 (1948), as well as in *Baltimore Transit Co. v. Faulkner*, 179 Md. 598, 20 A.2d 485 (1941), it was said that the word "wanton" means "characterized by extreme recklessness and utter disregard for the rights of others." We see no reason why the refusal of these appellants to leave the premises after having been requested to do so was not wanton in that their conduct was in "utter disregard of the rights of others." Even though their remaining may have been no more than an aggravating incident, it was nevertheless wanton within the meaning of this criminal trespass statute. See *Ex Parte Birmingham Realty Co.*, 63 So. 67 (Ala. 1913).

Since it was admitted that the carrousel tickets were obtained surreptitiously in an attempt to "integrate" the

amusement part, we think the claim that these appellants had taken seats on the carrousel under a bona fide claim of right is without merit. While the statute specifically excludes the "entry upon or crossing over" privately owned property by a person having a license or permission to do so, these appellants do not come within the statutory exception. In a case such as this where the operator of the amusement park—who had a right to contract only with those persons it choose to deal with—had not knowingly sold carrousel tickets to these appellants, it is apparent that they had no bona fide claim of right to a ride thereon, and, absent a valid right, the refusal to accept the tickets was not a [fol. 145] violation of any legal right of these appellants.

(ii)

We come now to the consideration of the second contention of the Griffin appellants that their arrest and conviction constituted an unconstitutional exercise of state power to enforce racial segregation. We do not agree. It is true, of course, that the park officer—in addition to being an employee of the detective agency then under contract to protect and enforce, among other things, the lawful racial segregation policy of the operator of the amusement park—was also a special deputy sheriff, but that dual capacity did not alter his status as an agent or employee of the operator of the park. As a special deputy sheriff, though he was appointed by the county sheriff on the application of the operator of the park "for duty in connection with the property" of such operator, he was paid wholly by the person on whose account the appointment was made and his power and authority as a special deputy was limited to the area of the amusement park. See Montgomery County Code (1955), §2-91. As we see it, our decision in *Drews v. State*, 224 Md. 186, 167 A. 2d 341 (1961), is controlling here. The appellants in that case—in the course of participating in a protest against the racial segregation policy of the owner of an amusement park—were arrested for disorderly conduct committed in the presence of regular Baltimore County police who had been called to eject them from the [fol. 146] park. Under similar circumstances, the appellants

in this case—in the progress of an invasion of another amusement park as a protest against the lawful segregation policy of the operator of the park—were arrested for criminal trespass committed in the presence of a special deputy sheriff of Montgomery County (who was also the agent of the park operator) after they had been duly notified to leave but refused to do so. It follows—since the offense for which these appellants were arrested was a misdemeanor committed in the presence of the park officer who had a right to arrest them, either in his private capacity as an agent or employee of the operator of the park or in his limited capacity as a special deputy sheriff in the amusement park (see Kauffman, *The Law of Arrest in Maryland*, 5 Md. L. Rev. 125, 149)—the arrest of these appellants for a criminal trespass in this manner was no more than if a regular police officer had been called upon to make the arrest for a crime committed in his presence, as was done in the *Drews* case. As we see it, the arrest and conviction of these appellants for a criminal trespass as a result of the enforcement by the operator of the park of its lawful policy of segregation, did not constitute such action as may fairly be said to be that of the State. The action in this case, as in *Drews*, was also “one step removed from State enforcement of a policy of segregation and violated no constitutional right of appellants.”

The judgments as to the Griffin appellants will be affirmed.

[fol. 147]

The Case Against the Greene Appellants

There is not enough in the record to show that the Greenes were duly notified to leave the restaurant by the only persons who were authorized by the statute to give notice. The record discloses that these appellants entered the park and crossed over it into the restaurant on the premises, but there was no evidence that the operator or lessee of the restaurant or an agent of his either advised these appellants that they were unwelcome or warned them to leave. There was evidence that the park officer had ordered these appellants to leave, but it is not shown that

he was authorized to do so by the lessee, and a new written agreement for the 1959 and 1960 seasons having been substituted for the former agreement covering the 1957 and 1958 seasons, the state of the record is such that it is not clear that the lessor had reserved the right to continue policing the leased premises as had been the case during the 1957-1958 period. Under these circumstances, it appears that the notice given by the park officer was ineffective. There is little doubt that these appellants must have known of the racial segregation policy of the operator of the park and that they were not welcome anywhere therein, but where notice for a definite purpose is required, as was the case here, knowledge is not an acceptable notice where the required notification is incident to the infliction of a criminal penalty. 1 Merrill, *Notice*, §509. See also *Woodruff v. State*, 54 So. 240 (Ala. 1911), where it was held (at p. 240) [fol. 148] that "[i]n order to constitute the offense of trespass after warning, it is necessary to show that the warning was given by the person in possession or his duly authorized agent." And see *Payne v. State*, 12 S. W. 2d/528 (Tenn. 1928), [a court cannot convict a person of a crime upon notice different from that expressly provided in the statute]. Since the notice to the Greene appellants was inadequate they should not have been convicted of trespassing on private property, and the judgments as to them must be reversed.

The judgments against the Griffin appellants are affirmed; the judgments against the Greene appellants are reversed; the Griffin appellants shall pay one-half of the costs; and Montgomery County shall pay the other one-half.

[fol. 149]

SUPREME COURT OF THE UNITED STATES

No. 287, October Term, 1961

WILLIAM L. GRIFFIN, *et al.* Petitioners.

vs.

MARYLAND

ORDER ALLOWING CERTIORARI—June 25, 1962

The petition herein for a writ of certiorari to the Court of Appeals of the State of Maryland is granted, and the case is transferred to the summary calendar. The case is set for argument to follow No. 85.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Frankfurter took no part in the consideration or decision of this petition.